

EXHIBIT 1

1 GENE TANAKA, Bar No. 101423
gene.tanaka@bbklaw.com
2 SHAWN D. HAGERTY, Bar No. 182435
shawn.hagerty@bbklaw.com
3 REBECCA ANDREWS, Bar No. 272967
rebecca.andrews@bbklaw.com
4 BEST BEST & KRIEGER LLP
2001 N. Main Street, Suite 390
5 Walnut Creek, CA 94596
Tel: (925) 977-3300

6 Attorneys for Plaintiff
7 COUNTY OF AMADOR
[Additional Counsel on p. 2]

8 UNITED STATES DISTRICT COURT
9
10 EASTERN DISTRICT OF CALIFORNIA
11 ROBERT T. MATSUI FEDERAL COURTHOUSE

12 CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE,

13 Plaintiff,

14 v.

15 KATHLEEN ALLISON, in her
official capacity as Secretary
16 of the California Department of
Corrections and Rehabilitation,

17 Defendants.
18

19 COUNTY OF AMADOR, a public
agency of the State of
20 California,

21 Plaintiff,

22 v.

23 KATHLEEN ALLISON in her
official capacity as Secretary
24 of the California Department of
Corrections and Rehabilitation;
25 PATRICK COVELLO in his official
capacity of Warden of
26 California Department of
Corrections and Rehabilitation
Mule Creek State Prison,

27 Defendants.
28

Case No. 2:20-cv-02482-WBS-AC

Honorable William B. Shubb

DECLARATION OF KAREN ASHBY IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY ADJUDICATION

No. 2:21-cv-0038-WBS-AC

Date: Aug. 22, 2022

Time: 1:30 p.m.

Court: 5

Action Filed: Jan. 7, 2021

Trial Date: April 18, 2023

[Filed with:

1. Not. & P. & A.;
2. State. of Undisp. Facts;
3. Decls. of Opalenik,
Andrews, Carlon, Emerick,
Taylor, Evatt, and
McHenry;
4. Appendix of Exs.;
5. [Proposed] Order]

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ANDREW L. PACKARD (Bar No. 168690)
andrew@packardlawoffices.com
WILLIAM N. CARLON (Bar No. 305739)
wncarlon@packardlawoffices.com
Law Offices of Andrew L. Packard
245 Kentucky Street, Suite B3
Petaluma, CA 94952
Tel: (707) 782-4060

JASON FLANDERS (Bar No. 238007)
jrf@atalawgroup.com
ERICA MAHARG (Bar No. 279396)
eam@atalafwgroup.com
AQUA TERRA AERIS LAW GROUP
490 43rd Street, Suite 108
Oakland, CA 94609
Tel. (916) 202-3018

Attorneys for Plaintiff
CALIFORNIA SPORTFISHING PROTECTION
ALLIANCE

BEST BEST & KRIEGER LLP

DECLARATION OF KAREN ASHBY

I, Karen Ashby, declare as follows:

1. I have personal knowledge of the matters set forth herein, except as otherwise noted, and, if called to testify, could and would testify competently thereto.

2. I am a Vice President at Larry Walker Associates, Inc. (LWA), an environmental engineering and consulting firm that specializes in, among other matters, water quality management. In my capacity as a Vice President, I serve as a Project Manager for stormwater and watershed management projects.

3. I have a Bachelor of Science from the University of California at Irvine and have been certified as a Professional in Storm Water Quality from Envirocert International, Inc. since 2004. I have been an active member of the California Stormwater Quality Association ("CASQA") since 1999 and have served as a member of the Board of Directors, Vice Chair, and Chair of CASQA. In 2018, I received the CASQA Leadership Award as a recognition of my contributions to the stormwater profession.

4. I have over 30 years of experience in stormwater quality matters, including but not limited to, providing regulatory assistance; facilitating stakeholder groups; developing and implementing stormwater management programs and Total Maximum Daily Loads; evaluating and reporting on stormwater program effectiveness; and preparing various regulatory and technical reports on stormwater management issues. Prior to joining LWA, I managed the area-wide municipal stormwater program for the County of Orange for over ten years.

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DOCUMENTS REVIEWED

5. I reviewed a number of documents related to Mule Creek State Prison (the "Facility"). I reviewed copies of documents from Best Best & Krieger LLP ("BB&K"), the website of the California Central Valley Regional Water Quality Control Board ("Regional Board"), the website of the California State Water Resources Control Board ("State Board"), and/or the Storm Water Multiple Application and Report Tracking System ("SMARTS"). SMARTS is a publicly available database of documents the Regional Board or dischargers / permittees upload. I have used the Regional Board, State Board, and SMARTS websites thousands of times in my more than thirty years' experience with storm water quality matters. The documents listed below from those websites are documents typically uploaded by the Regional Board, State Board, or dischargers / permittees.

6. Specifically, the documents I reviewed included the following:

A. Pertinent sections of the document entitled "Revised Stormwater Collection System Investigation Report of Findings" for the Facility, dated August 2018 and revised October 2019, with bates label MCSP0003981 - MCSP0003984 ("Stormwater Report"). Figure 1-5, below, is an aerial depiction of the Facility from the Stormwater Report, with bates label MCSP0004089. I received this from BB&K. A true copy of excerpts of the Stormwater Report with Bates Nos. MCSP0003957-MCSP0003958, MCSP0003981-MCSP0003984, and MCSP0004089 are attached to the Appendix of Documents filed in Support of Plaintiffs' Motion for

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1 Summary Adjudication, filed concurrently ("Plaintiffs'
2 Appendix"), as ex. 5.

3 B. Regional Board Water Code 13383 Order to Monitor
4 Discharges to Surface Water issued to Patrick Covello, Warden,
5 Mule Creek State Prison ("Defendants") dated August 6, 2020
6 ("August 2020 Order"). I reviewed this on SMARTS. A true copy of
7 the August 2020 Order is attached to Plaintiffs' Appendix as ex.
8 6.

9 C. The Regional Board's Order of the same name on
10 about December 22, 2020, which superseded the August 2020 Order
11 ("December 2020 Order"). I reviewed this on SMARTS. A true copy
12 of the December 2020 Order is attached to Plaintiffs' Appendix as
13 ex. 7.

14 D. The Regional Board's Order of the same name dated
15 November 29, 2021, which revised the December 2020 Order
16 ("November 2021 Order"). I reviewed this on SMARTS. A true copy
17 of the November 2020 Order is attached to Plaintiffs' Appendix as
18 ex. 8.

19 E. Water Quality Control Plan for the Central Valley
20 Regional Water Quality Control Board for the Sacramento River
21 Basin and San Joaquin River Basin, last revised May 2018 ("Basin
22 Plan"). I reviewed this on the Regional Board website. A true
23 copy of the Basin Plan is attached to Plaintiffs' Appendix as ex.
24 9.

25 F. The State Water Resources Control Board's Part 3
26 of the Water Quality Control Plan for Inland Surface Waters,
27 Enclosed Bays, and Estuaries of California - Bacteria Provisions
28 and Water Quality Standards Variance Policy, dated February 4,

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1 2019 ("Bacteria Standards"). I reviewed this on the State Board's
2 website. A true copy of the Bacteria Standards is attached to
3 Plaintiffs' Appendix as ex. 10.

4 G. Hazardous Materials Spill Reports for the time
5 period between January 4, 2021 and March 29, 2022, provided by
6 Facility representatives to the Governor's Office of Emergency
7 Services ("OES Reports"). Data for the OES Reports was contained
8 in the Quarterly Monitoring Reports filed by the Facility for the
9 First through Fourth Quarters of 2021 and the First Quarter of
10 2022. I reviewed the Quarterly Monitoring Reports on SMARTS. The
11 Quarterly Monitoring Reports are discussed in further detail in
12 paragraph 6.I below.

13 H. SHN Technical Memoranda to the Regional Board
14 containing weekly monitoring reports of laboratory analytical
15 reports of samples Defendants took of discharges from MCSP2,
16 MCSP3, MCSP4/Downstream, MCSP5, and MCSP6, between February 4,
17 2019 and May 29, 2020 ("Weekly Monitoring Reports"). I received
18 these from BB&K. A true copy of screenshots listing these Weekly
19 Monitoring Reports is attached to Plaintiffs' Appendix as ex. 11.

20 I. The quarterly monitoring and annual monitoring
21 reports Defendants submitted for the Facility in response to the
22 August 13383 Order and December 13383 Order for the time period
23 covering August 2020 through December 31, 2021 ("Quarterly and
24 Annual Monitoring Reports"). The Quarterly and Annual Monitoring
25 Reports included laboratory analytical reports of samples
26 Defendants took from Mule Creek [MCSP4], and MS4 outfalls MCSP2
27 and MCSP3, as well as MCSP5 and MCSP6 ("13383 Lab Reports"). I
28 reviewed these on SMARTS. A true copy of a list of the Quarterly

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1 and Annual Monitoring Reports is attached to Plaintiffs' Appendix
2 as ex. 12.

3 J. The notice of intent to enroll the Facility under
4 the Statewide National Pollutant Discharge Elimination System
5 (NPDES) General Permit for Waste Discharge Requirements for Storm
6 Water Discharges From Small Separate Storm Sewer Systems (MS4s),
7 State Board Order 2013-0001-DWQ NPDES No. CAS000004 ("Small MS4
8 Permit") and related documents with Bates Nos. CALSPORT0013003 -
9 0013007. I reviewed this on SMARTS. A true copy of the Small MS4
10 Permit is attached to Plaintiffs' Appendix as ex. 13.

11 K. The No Exposure Certification ("NEC") to enroll
12 the Facility under the NPDES General Permit Storm Water
13 Discharges Associated with Industrial Activities, NPDES NO.
14 CAS000001 ("Industrial General Permit") and related documents. I
15 reviewed this on SMARTS. True copies of the NEC and Industrial
16 General Permit are attached to Plaintiffs' Appendix as exs. 14
17 and 15, respectively.

18 L. The 2021 No Exposure Certification Inspection
19 Report, prepared by a representative of the Regional Board, dated
20 February 11, 2021 ("NEC Inspection Report"). I reviewed this on
21 SMARTS. A true copy of the NEC Inspection Report is attached to
22 Plaintiffs' Appendix as ex. 16.

23 M. The Regional Board letter to the Facility, dated
24 February 11, 2022, commenting on the Phase II MS4 Annual Reports
25 and 13383 Order Quarterly Monitoring Reports ("2022 Comment
26 Letter"). I reviewed this on SMARTS. A true copy of the 2022
27 Comment Letter is attached to Plaintiffs' Appendix as ex. 17.

28 N. Laboratory analytical reports of samples

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1 Plaintiffs took on March 9, 2022 at the site inspection which I
2 attended ("Plaintiffs' Lab Samples"). I received these from BB&K.
3 True copies of Plaintiffs' Lab Samples are attached to
4 Plaintiffs' Appendix as ex. 18.

5 O. The County of Amador's First Amended Complaint and
6 California Sportfishing Protection Alliance's Complaint in this
7 action. I received these from BB&K.

8 7. According to the Stormwater Report, as well as the
9 August 2020 Order, December 2020 Order, and November 2021 Order:

10 A. The point labeled "MCSP3" depicts the Facility's
11 primary outfall location, which drains approximately 64.2 acres
12 of the Facility through a culvert under an exterior perimeter
13 road to an earthen channel that flows into Mule Creek. It is
14 estimated that three quarters of the drainage area flows to the
15 primary outfall. See Stormwater Report Section 1.4.1,
16 MSCP0003982. Discharges from MCSP3 first pass through a Facility
17 outfall labeled "MCSP6."

18 B. The point labeled "MCSP2" depicts the Facility's
19 secondary outfall location, which drains approximately 21.3 acres
20 of the Facility through an earthen channel that flows into Mule
21 Creek. It is estimated that one quarter of the drainage area
22 flows to the secondary outfall. See Stormwater Report Section
23 1.4.2, MCSP0003984. Discharges from MCSP2 first pass through a
24 Facility outfall labeled "MCSP5."

25 C. The point labeled as "MCSP4/Downstream" depicts a
26 location within Mule Creek at a southern edge and downstream of
27 the Facility. In various documents reviewed, "MCSP4/Downstream"
28 was also labeled "Location 3."

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1 Figure 1-5 is a site plan showing these locations and is attached
2 to this Declaration.

3 8. Based on this document review:

4 A. Mule Creek is a stream that is tributary to Dry
5 Creek with in-stream sampling occurring at a point labeled
6 "MCSP4/Downstream" (in addition to others).

7 B. Section 2.1 of the Basin Plan provides that the
8 "beneficial uses of any specifically identified water body
9 generally apply to its tributary streams."

10 C. Table 2-1, of the Basin Plan designates the
11 following beneficial uses for the waters of the Sacramento-San
12 Joaquin Delta and its tributaries, including Mule Creek:
13 municipal and domestic supply (MUN); agricultural supply (AGR);
14 water contact recreation (REC-1); non-contact water recreation
15 (REC-2); warm freshwater habitat (WARM); cold freshwater habitat
16 (COLD); migration for aquatic organisms (MIGR); spawning,
17 reproduction, and/or early development (SPWN); and wildlife
18 habitat (WILD). Section 4.1.8 of the Basin Plan provides, in
19 part, that "[a]ll water quality objectives are developed to
20 protect the MUN beneficial use unless otherwise stated." Section
21 4.2.1.1.8 of the Basin Plan provides, in part, that "except under
22 specifically defined exceptions, all surface and ground waters of
23 the state are to be protected as existing or potential sources of
24 municipal and domestic supply."

25
26 **PAST VIOLATIONS OF SMALL MS4 PERMIT - *E. COLI***

27
28 9. **Water Quality Objectives - *E. coli*.** Effective February

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4, 2019, the Bacteria Objectives applicable to all inland surface waterbodies (including Mule Creek) are measured by the *E. coli* geometric mean (GM" or geomean") and the statistical threshold value ("STV"). Geomean results are based on a six-week rolling average of at least five samples within that six-week period, calculated weekly. If the geomean in any six week period is greater than the geomean magnitude (100 cfu/100 mL for *E. coli*), then the sample violates the geomean WQS. STV results are based on a single sample, with no more than 10% of the samples exceeding in a calendar month. Any sample greater than the STV threshold violates the STV WQO unless that sample constitutes 10% or less of all STV samples during the calendar month. The Bacteria Objectives for the GM and STV are set forth in the following Table 1, which I have circled for clarity:

Table 1. REC-1 Bacteria Water Quality Objectives

Applicable Waters	Objective Elements	Estimated Illness Rate (NGI): 32 per 1,000 water contact recreators	
		Magnitude	
	Indicator	GM (cfu/100 mL)	STV (cfu/100 mL)
All waters where the salinity is equal to or less than 1 ppt 95 percent or more of the time	<i>E. coli</i>	100	320
All waters where the salinity is greater than 1 ppt more than 5 percent of the time	Enterococci	30	110
The waterbody GM shall not be greater than the applicable GM magnitude in any six-week interval, calculated weekly. The applicable STV shall not be exceeded by more than 10 percent of the samples collected in a CALENDAR MONTH, calculated in a static manner.			
NGI = National Epidemiological and Environmental Assessment of Recreational Water gastrointestinal illness rate		GM = geometric mean STV = statistical threshold value cfu = colony forming units	mL = milliliters ppt = parts per thousand

To avoid double-counting STV and geomean exceedance for the same day, the total number of exceedances were counted as the number of STV exceedances plus the number of additional exceedances of

1 the geomean that had not already triggered an exceedance of the
2 STV.

3 10. **Forty (40) Past Violations of Small MS4 Permit's *E.***
4 ***coli* Discharge Prohibition - STV.** As shown in attached Table 2,
5 Defendants' laboratory analytical results reported discharges
6 from the Facility to Mule Creek in excess of the STV WQO for *E.*
7 *coli* in 18 samples from MCSP2 and 22 samples from MCSP3 between
8 February 4, 2019 and January 6, 2021. These results show that 95%
9 of samples taken from MCSP2 (18/19 samples) and 85% of samples
10 taken from MCSP3 (22/26 samples) exceeded the STV WQO for *E. coli*
11 during this period.

12 11. **One (1) Past Violation of Small MS4 Permit's *E. coli***
13 **Discharge Prohibition - Geometric Mean.** As shown in attached
14 Table 3, Defendants' laboratory analytical results demonstrate
15 discharges from the Facility to Mule Creek exceed the geomean WQO
16 for *E. coli* on 11 occasions from discharge points MCSP2 and MCSP3
17 between the dates of February 4, 2019 and January 6, 2021 (when
18 enough samples were collected within the 6-week period). However,
19 all but one of the sample dates already exceed the STV, and
20 therefore, were not counted as exceedances under this analysis.
21 On that one sample date (3/26/2020), the two results reported at
22 MCSP3 did not exceed the STV, but the calculated geomean exceeded
23 100 MPN/100mL. This result was counted as one additional *E. coli*
24 discharge violation at MCSP3 due to the geomean.

25 12. **Nineteen (19) Past Violations of MS4 Permit's Receiving**
26 **Water Limitations - *E-Coli*.** As shown in attached Table 4, 47
27 samples collected during 35 days (out of a total of 68 samples in
28 45 days) from the receiving water at MCSP4/Downstream analyzed

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1 between February 4, 2019 and January 6, 2021 (69%) exceeded the
2 STV or geomean WQO for *E. coli*. On 19 of these 35 days of
3 exceedances in Mule Creek, the Facility discharged *E. coli*
4 (exceeding the WQOs) at MCSP2 and MCSP3 on the same date as the
5 exceedance in the receiving water (54%).

6 7 **PAST VIOLATIONS OF SMALL MS4 PERMIT - METALS**

8 9 **13. Water Quality Objectives - Metals.**

10 A. Section 4.2.1.1.8 of the Basin Plan provides that
11 "except under specifically defined exceptions, all surface and
12 ground waters of the state are to be protected as existing or
13 potential sources of municipal and domestic supply." Section
14 3.1.3 includes the following numeric water quality objectives for
15 chemical constituents, including but not limited to aluminum,
16 iron, and manganese, which require waters for use as domestic or
17 municipal supply (MUN) to meet the maximum contaminant limits
18 (MCLs) specified in Title 22 of the California Code of
19 Regulations ("CCR"). Section 64449, Table 64449-A of Title 22 of
20 the CCR establishes the following limits for domestic or
21 municipal supply:

22

Constituent	MCLs / Units
Aluminum	200 µg/L
Iron	300 µg/L
Manganese	50 µg/L

23
24
25

26 B. Sections 4.1.8 and 4.2.1.1.15 of the Basin Plan
27 includes the California Toxics Rule (CTR) at 40 C.F.R. § 131.38 as
28 criteria for constituents, including but not limited to copper,

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lead, and zinc for surface waters with a "municipal" beneficial use designation as follows:

Constituent	CTR Criteria / Units
Copper	9 µg/L dissolved (Chronic)
Lead	2.5 µg/L dissolved (Chronic) 3.2 µg/L total (Chronic)
Zinc	117 ug/L dissolved (Acute) 120 µg/L total (Acute)

14. **Twenty-Five (25) Past Violations of Small MS4 Permit's Discharge Prohibition - Metals.** As shown in attached Table 5, the laboratory analytical reports of samples Defendants took from MCSP2 and MCSP3 between the dates of February 4, 2019 and January 6, 2021 demonstrate that discharges from the Facility's outfalls at MCSP2 and/or MCSP3 exceeded the WQOs for various metals on 25 occasions.

15. **Fourteen (14) Past Violations of Small MS4 Permit's Receiving Water Limitations - Metals.** As shown in attached Table 6, laboratory analytical reports of samples Defendants took from MCSP2, MCSP3, and MCSP4/Downstream between the dates of February 4, 2019 and January 6, 2021 demonstrate fourteen samples of the receiving water at MCSP4/Downstream analyzed during this time period exceeded WQOs for aluminum, iron, lead, and zinc on the same days on which the Facility discharged these same metals from discharge points MCSP2 and MCSP3.

ONGOING VIOLATIONS

16. **Ongoing Discharges from Facility to Mule Creek.**

A. As set forth in attached Table 7, Defendants'

1 Quarterly Monitoring Reports indicate the Facility discharged
2 more than 30 million gallons to Mule Creek during 12 discharge
3 events occurring over more than 60 days between January 2021 and
4 March 2022.

5 B. In August 2020, the Regional Water Board issued a
6 Water Code Section 13383 Order to the Facility to monitor
7 discharges to surface water. The August 2020 Order required,
8 among other things, the Facility to monitor MCSP2 (Outfall-1) and
9 MCSP3 (Outfall-2) as well as MCSP4 for a number of parameters
10 including E.coli (in CFU/100 ml) and metals.

11 C. In December 2020, the Regional Water Board issued
12 a revised 13383 Order to clarify that monitoring was to be
13 conducted when there is any discharge from the Facility's MS4.
14 The December 2020 Order modified the monitoring locations, which
15 required, among other things, the Facility to monitor MCSP5
16 (Outfall-1) and MCSP6 (Outfall-2) as well as MCSP4 for a number
17 of parameters including E.coli (in CFU/100 ml) and metals.

18 D. In November 2021, the Regional Water Board issued
19 another 13383 Order to monitor discharges to surface water. The
20 November 2021 Order required, among other things, the Facility to
21 monitor MCSP5 (Outfall-1), MCSP6 (Outfall-2), MCSP2 (Outfall-3),
22 and MCSP3 (Outfall-4) as well as MCSP4 for a number of parameters
23 including E.coli (in CFU/100 ml) and metals. Although the August
24 2020 Order and November 2021 Order required Defendants to monitor
25 discharges from MCSP2 and MCSP3, Defendants' laboratory
26 analytical results do not contain data for samples taken from
27 these locations after issuance of the November 2021 Order.

28 E. Each of the 13383 Orders provides that "[s]amples

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1 . . . taken as required herein shall be representative of the
2 volume and nature of the monitored discharge.”

3
4 **ONGOING VIOLATIONS OF SMALL MS4 PERMIT'S**
5 **DISCHARGE PROHIBITIONS AND RECEIVING WATER**
6 **LIMITATIONS PROVISIONS - *E. COLI***

7
8 17. **Nine (9) Ongoing Violations of Small MS4 Permit's *E.***
9 ***coli* Discharge Prohibition - STV.** As shown in attached Table 8,
10 the laboratory analytical results reported discharges from the
11 Facility to Mule Creek in excess of the STV WQO for *E. coli* in
12 four (4) samples from MCSP5 and five (5) samples from MCSP6
13 between January 7, 2021 and March 28, 2022. Defendants' 13383
14 Orders required *E. coli* to be reported as a numeric value;
15 however *E. coli* was only reported as "Present" by the laboratory
16 in an additional five samples collected from each of these
17 locations, thus no numeric result was provided. These results
18 show that *E. coli* was present in 100% of samples taken at MCSP5
19 and MCSP6 (10/10) and that least 40% of samples taken from MCSP5
20 (4/10) and 50% of samples taken from MCSP6 (5/10) exceeded the
21 STV WQO for *E. coli* during this period.

22 18. **Ongoing Violation of Small MS4 Permit's *E. coli***
23 **Discharge Prohibition - Geomean.** Ongoing violations of the
24 geomean limit could not be calculated because there were fewer
25 than five samples within each six-week period. There is
26 discretion regarding the number of *E. coli* results to be included
27 within each 6-week period, however, five samples of *E. coli* is
28 justified because it results in a more robust geomean.

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1 19. **Five (5) Ongoing Violations of Small MS4 Permit's**
2 **Receiving Water Limitations - *E. coli*.** As shown in attached Table
3 9, five (5) samples collected from the receiving water at
4 MCSP4/Downstream analyzed between January 7, 2021 and March 28,
5 2022 exceeded the STV WQO for *E. coli*. On all five days of
6 exceedances in Mule Creek, the Facility discharged *E. coli* at
7 MCSP5 and MCSP6 on the same date as the exceedance in the
8 receiving water (100%). In addition, *E. coli* was reported as
9 "Present" in receiving water during an additional six days, and
10 "Present" in Facility discharge during five of those six days (*E.*
11 *coli* was not sampled in Facility discharge during the sixth day).

12
13 **ONGOING VIOLATIONS OF SMALL MS4 PERMIT - METALS**
14

15 20. **Seventy-seven (77) Ongoing Violations of Small MS4**
16 **Permit's Discharge Prohibition - Metals.** As shown in attached
17 Table 10, the laboratory analytical reports of samples Defendants
18 took from MCSP5 and MCSP6 between the dates of January 7, 2021
19 and March 28, 2022 demonstrate that discharges from the
20 Facility's outfalls at MCSP5 and MCSP6 exceeded WQOs for various
21 metals on seventy-seven occasions.

22 21. **Twenty-Nine (29) Ongoing Violations of Small MS4**
23 **Permit's Receiving Water Limitations - Metals.** As shown in
24 attached Table 11, laboratory analytical reports of samples
25 Defendants took from MCSP5, MCSP6, and MCSP4/Downstream between
26 the dates of January 7, 2021 and March 28, 2022 demonstrate that
27 receiving water at MCSP4/Downstream analyzed during this time
28 period exceeded WQS for various metals twenty-nine times on the

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1 same days that the Facility discharged these same metals from
2 discharge points MCSP5 and MCSP6.

3
4 **MARCH 9, 2022 SITE INSPECTION**

5
6 22. On March 9, 2022, I inspected portions of the Facility
7 ("Site Inspection"), took photographs and notes, and, through a
8 field technician, obtained three aqueous samples from within the
9 Facility's storm drain system.

10 23. In preparation for the Site Inspection, I reviewed the
11 precipitation history for the area, however there is not a rain
12 gauge that is within the City limits. The closest one is Sutter
13 Hill CDF (~10 miles), which indicated that the last measurable
14 rain was recorded on March 1, 2022. On the day of the Site
15 Inspection, it was sunny, was not raining, and had not rained for
16 approximately 8 days. I also reviewed the stormwater system,
17 including but not limited to subsurface pipelines, drop inlets,
18 culverts, and outfalls, depicted in the Stormwater Report.

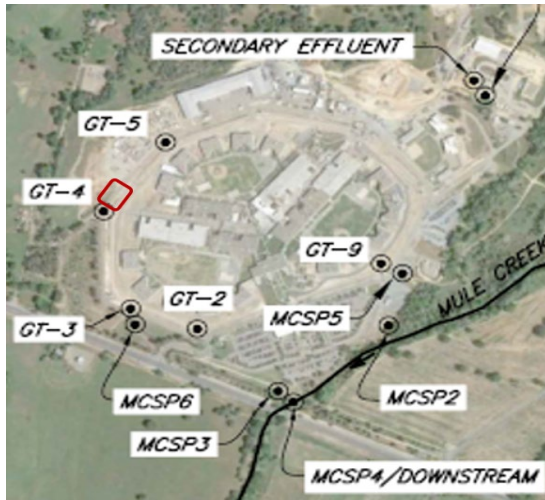
19
20 **ONGOING VIOLATION - STANDING WATER IN STORM DRAINS**

21
22 24. I saw standing water at the following locations within
23 the exterior perimeter storm drain.

24 A. At the drop inlet upstream (U/S) of Guard Tower 4
25 ("GT-4") (see red square on Figure 1), I observed standing water
26 in the catch basin (IMG-2820).

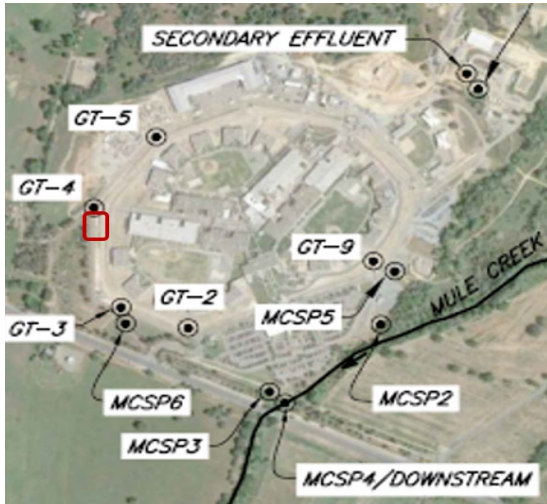
Figure 1 IMG-2820 Location

IMG-2820. Drop Inlet U/S GT-4



B. At the drop inlet downstream (D/S) GT-4 (see red square on Figure 2), I observed water actively flowing through subsurface pipelines, apparently from within the Facility, under the lethal fence, and into the catch basin located at GT-4. (IMG-2797). The County's field technician took a sample of the flowing water from the subsurface pipeline into the catch basin. I reviewed the analytical laboratory results of Plaintiffs' Lab Samples which confirmed the presence of *E. coli*, total and fecal coliform, and pharmaceutical products.

Figure 2 IMG-2797 Location

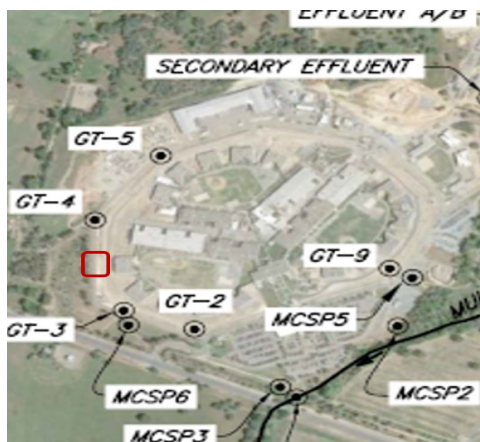


IMG-2797. Drop Inlet D/S GT-4



C. Every drop inlet between GT-4 and Guard Tower 3 ("GT-3") had visible standing or flowing water present as shown in IMG-2773, 2771, and 2767. The location of each image is indicated by the red squares on Figures 3 to 5 below.

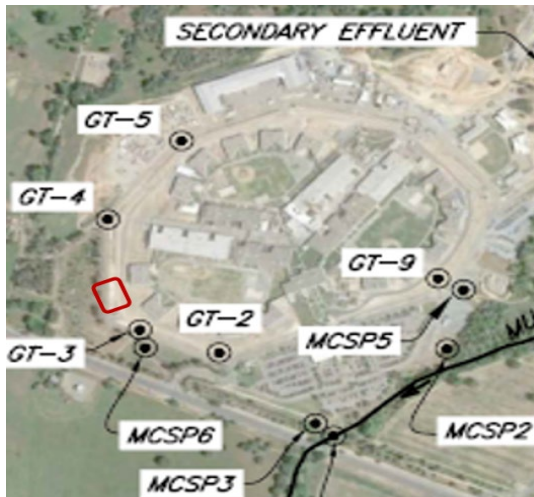
Figure 3 IMG-2773 Location



IMG-2773. Drop Inlet D/S GT-4, by Building 5



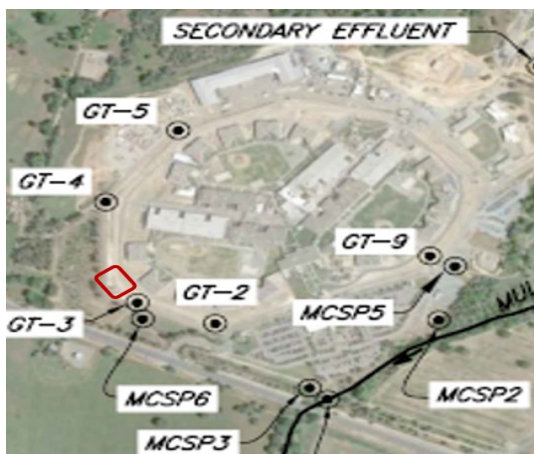
Figure 4 IMG-2771 Location



IMG-2771 - D/S GT-4, Between Bldg 4 and 5



Figure 5 IMG-2767 Location



IMG-2767 - By Building 4



D. At the junction vault D/S GT-3 (see red rectangle on Figure 6 below), I observed water present within the junction vault and subsurface corrugated pipelines that carry flows through the Facility's storm drain system from the direction of GT-4 to the junction vault (IMG-2758). The County's field technician took a sample of the water within the junction vault. I reviewed Plaintiffs' Lab Samples results which confirmed the presence of *E. coli*, total and fecal coliform, and

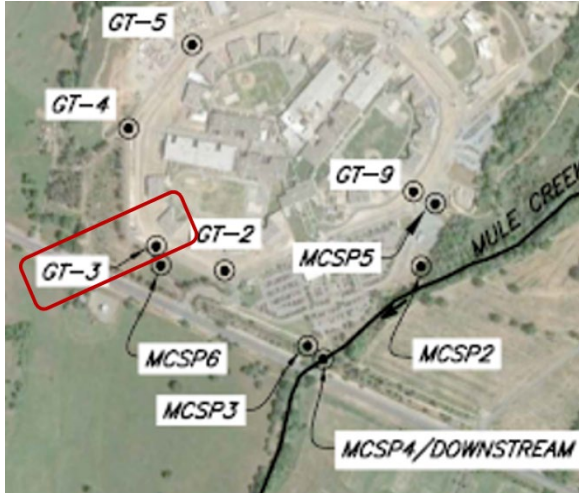
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pharmaceutical products.

Figure 6 IMG-2758 Location

IMG-2758 - Guard Tower 3

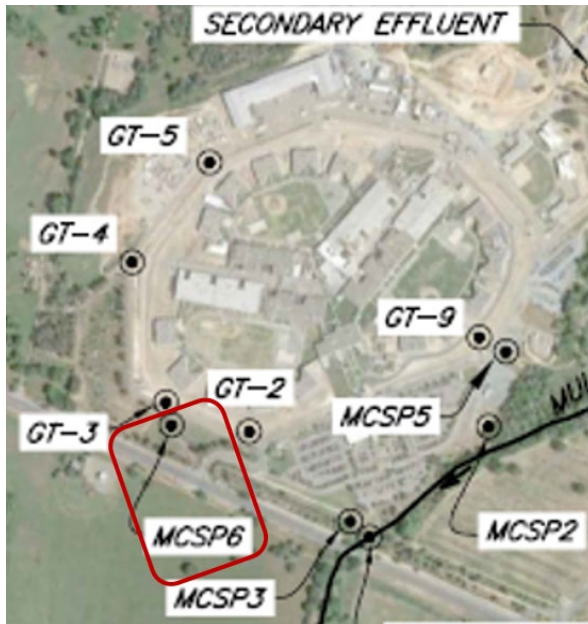
Junction Vault



E. As set forth in the Stormwater Report, flows leave the junction vault at GT-3, flow through a culvert under a perimeter road, and outfall to an earthen channel. The outfall to the earthen channel is labeled MCSP6 on Figure 6. Flows from the earthen channel enter Mule Creek at the location labeled MCSP3. (See red rectangle on Figure 7 below) I inspected the outfall at MCSP6 and found standing water in the earthen channel at the point of outfall. I also observed evidence of a recent flows through the storm drain system outfall at MCSP 6 to the earthen channel. (IMG-2738, IMG-2741).

Figure 7 IMG-2738 Location

IMG-2738 - MCSP6 Outfall



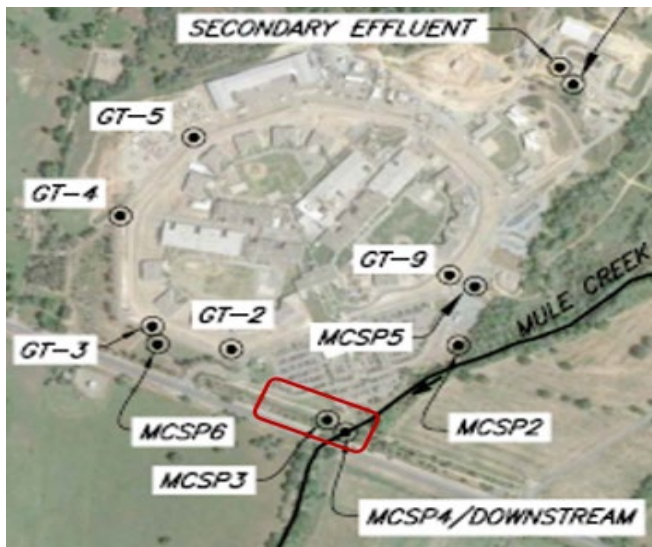
IMG-2741 - Earthen Channel From
MCSP6 to MCSP3



F. As shown in red rectangle on Figure 8 and IMG-2745, IMG-2778, and IMG-2827, I followed the earthen channel from MCSP6 to MCSP3 and observed standing water within and evidence and recent flows through large portions of the length of the channel. At the point labeled MCSP3, I observed water inside the pipelines that outfall to Mule Creek (IMG-2778).

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Figure 8 Location of IMG-2745, IMG-2778, IMG-2827



IMG-2745 - Water Within Earthen Swale Between MCSP 6 and MCSP3



IMG-2778 - MCSP3



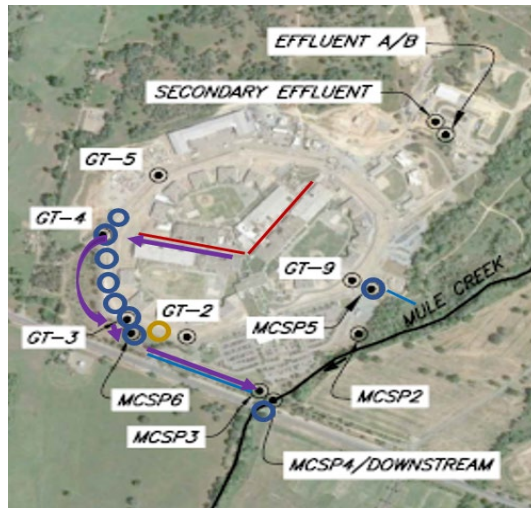
IMG-2827 - Earthen Channel U/S MCSP3



G. Based on these observations and the diagram of the flows within the Facility's storm drain system, the water within the junction vault at GT-3, which drained through MCSP6 and into the earthen channel, appeared to follow the route shown in purple on Figure 9 below.

Figure 9. Observed Flows March 9, 2022

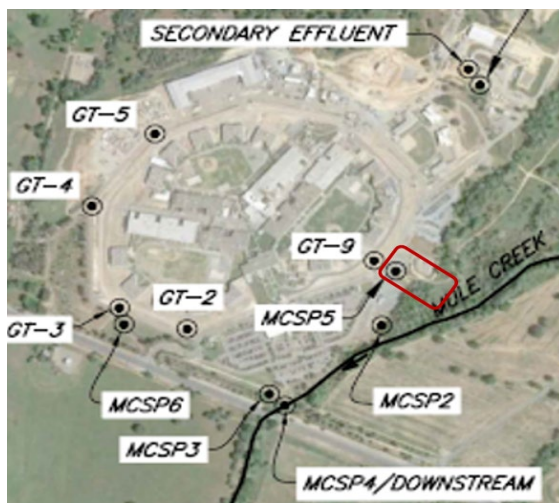
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H. At MCSP5, I observed water in the junction vault as shown red rectangle in Figure 10 and IMG-2853. I followed the path of the storm drain system across the street to the location where MCSP5 outfalls to an earthen channel. As shown in IMG-2861 and IMG-2865, there was evidence of flows recently leaving the MCSP5 outfall and there was standing water in the earthen channel that drains into Mule Creek.

Figure 10 Location IMG-2861

IMG-2853 - Junction Vault at MCSP5



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IMG-2861 - MCSP5 Outfall



IMG-2865 - Earthen Channel
Between MCSP5 and Mule Creek



25. In summary, I observed evidence of flows within and discharges from the Facility's storm drain system occurring in dry weather. Flows appeared to originate within the Facility's lethal fence, through the portion of the system that collects and conveys flows from the central AB corridor, through the subsurface drainage system along the perimeter road, through the junction vault at MCSP6, through the earthen channel, and out of MCSP3 to Mule Creek. There was also evidence of recent dry weather discharges from MCSP5 to the earthen channel that flows to Mule Creek.

ONGOING VIOLATIONS - INDUSTRIAL GENERAL PERMIT

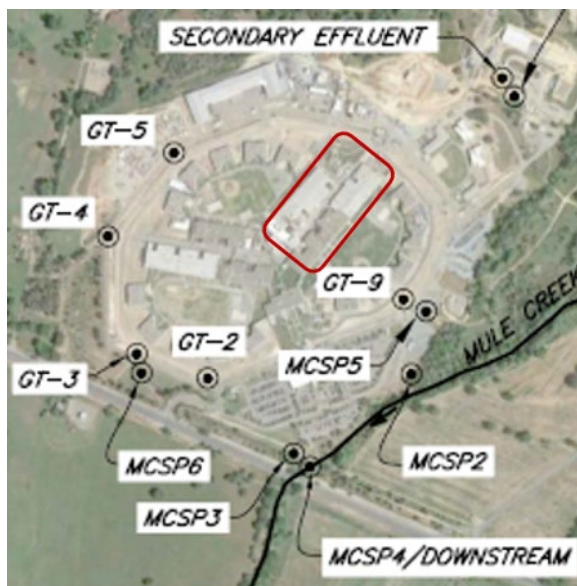
26. I next entered the Facility and walked through the central "BC" corridor and then through central "AB" corridor. The pathway is depicted by the red rectangle on Figure 11.

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1 industrial meat packing area was leaking onto the ground in an
 2 area exposed to precipitation. According to the NEC Report, page
 3 7, figure 3, legend note 3, the chemicals stored in this area
 4 include "Hazmat 'igloos' containing food grade mineral oil for
 5 equipment lubrication." In addition, cardboard containers were
 6 stored at the edge of the covered loading dock area outside the
 7 meat packing area, in a location exposed to precipitation.

8
 9 Figure 12 Industrial Area

NEC Report Figure 3 Industrial
 Meat Processing Location



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 20 IMG-2877 - Leaking Industrial
 Material Storage

21
 22
 23
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 27
 28 IMG-2876 - Cardboard Container
 Storage

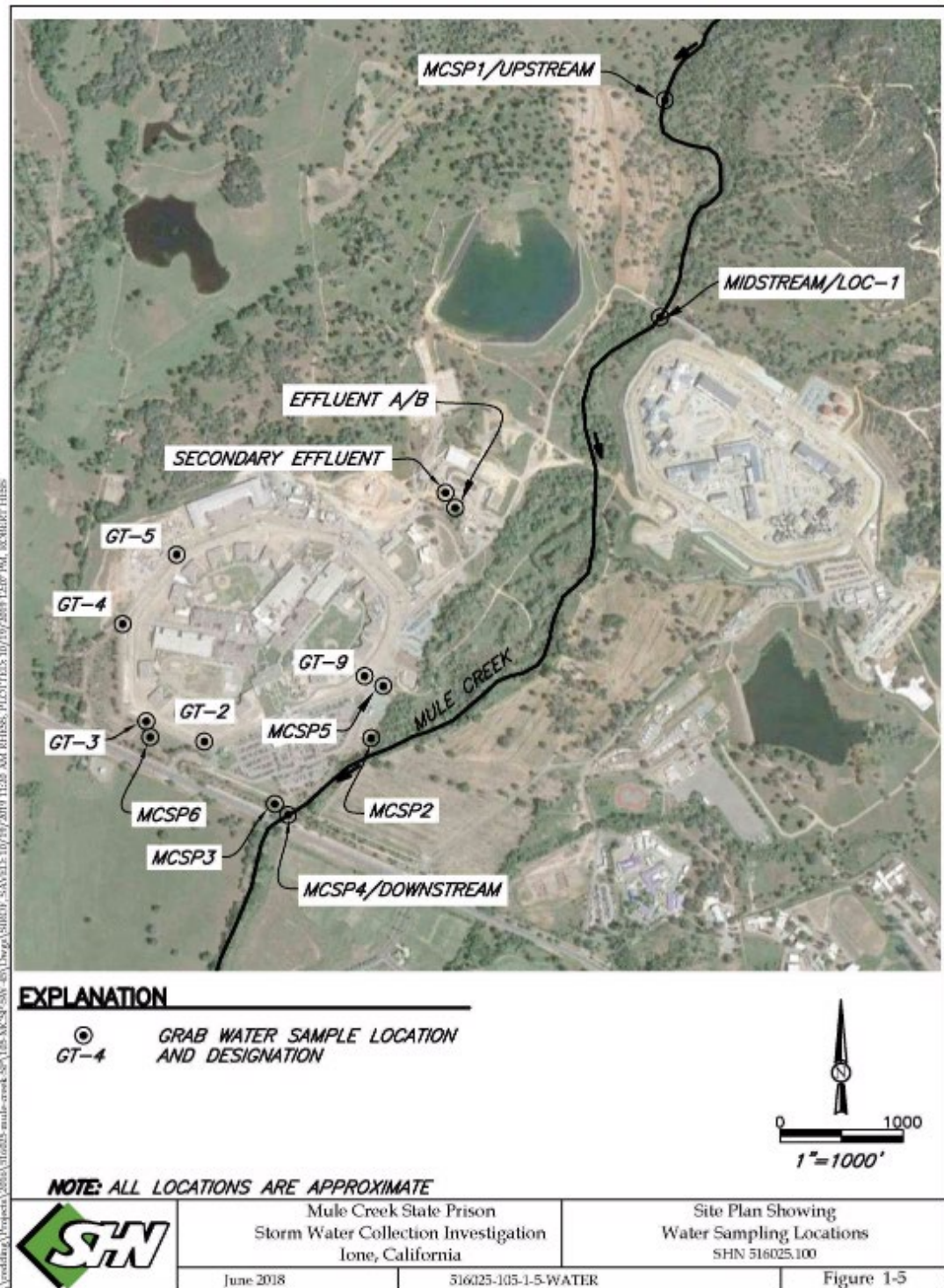


I declare under penalty of perjury that the foregoing is true and correct.

KAREN ASHBY

2:20-CV-02482-WBS-AC
Decl. of Ashby ISO MSA

Figure 1-5



MCSP0004089

**Table 2. Forty (40) Past Violations of Small MS4 Permit's
E. coli Discharge Prohibition - STV**

Sample Date	WQO	MCSP2 Result, MPN/100mL		MCSP3 Result, MPN/100mL	
		Measurement	Exceeds	Measurement	Exceeds
4/8/2019	320	920.8	Yes	-	-
	STV	842	Yes		
5/16/2019	320	22,820	Yes	34,480	Yes
	STV	15,150	Yes	34,480	Yes
5/20/2019	320	4,430	Yes	1,413.6	Yes
9/16/2019	320	-	-	27,230	Yes
	STV	-	-	448	Yes
12/23/2019	320	2,613	Yes	2,254	Yes
1/9/2020	320	-	-	1,986.3	Yes
	STV	-	-	-	-
1/16/2020	320	703	Yes	-	-
1/17/2020	320	1,723	Yes	520	Yes
1/27/2020	320	1,565	Yes	309	No
	STV	565	Yes	691	Yes
3/16/2020	320	920.8	Yes	920.8	Yes
	STV	1,935	Yes	414	Yes
3/17/2020	320	-	-	325.5	Yes
	STV	960	Yes	512	Yes
3/25/2020	320	788	Yes	42	No
	STV	788	Yes	10	No
4/6/2020	320	1,722	Yes	1,334	Yes
4/7/2020	320	512	Yes	1,187	Yes
	STV	-	-	1,046.2	Yes
4/20/2020	320	-	-	450	Yes
5/18/2020	320	34,410	Yes	24,196	Yes
	STV	34,410	Yes	12,230	Yes

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Sample Date	WQO	MCSP2 Result, MPN/100mL		MCSP3 Result, MPN/100mL	
		Measurement	Exceeds	Measurement	Exceeds
5/19/2020	320 STV	24,196	Yes	21,870	Yes
				12,033	Yes
5/28/2020	320 STV	-	-	6,867	Yes
12/17/2020	320 STV	Absent	No	Absent	No

Table 3. One (1) Additional Violation of Small MS4 Permit's *E. coli* Discharge Prohibition - Geomean (GM)

Sample Date	WQO	MCSP2 Result, MPN/100mL		MCSP3 Result, MPN/100mL	
		Geomean	Exceeds ¹	Geomean	Exceeds ¹
4/8/2019	100 GM	881	UD	34,480	UD
5/16/2019	100 GM	4,046	UD	11,889	UD
5/20/2019	100 GM	11,527	UD	27,230	UD
12/23/2019	100 GM	2,613	UD	448	UD
1/9/2020	100 GM	-	-	1,005	UD
1/16/2020	100 GM	1,355	UD	1,261	UD
1/17/2020	100 GM	1,468	UD	1,011	UD
1/27/2020	100 GM	1,492	UD	921	UD
3/16/2020	100 GM	721	UD	798	UD
3/17/2020	100 GM	1,002	UD	541	UD
3/25/2020	100 GM	991	UD	535	Yes
3/26/2020	100 GM	947	Yes	211	Yes
4/6/2020	100 GM	1,046	Yes	265	Yes
4/7/2020	100 GM	945	Yes	354	Yes
4/20/2020	100 GM	-	-	361	Yes
5/18/2020	100 GM	4,197	UD	2,778	Yes
5/19/2020	100 GM	28,855	UD	8,108	Yes
5/28/2020	100 GM	-	-	7,887	Yes
12/17/2020	100 GM	Absent	UD	Absent	UD

**Table 4. Nineteen (19) Past Violations of Small MS4 Permit's
Receiving Water Limitations - *E. coli***

Sample Date	MCSP4/ Downstream Exceedance, MPN/100mL	WQO	MCSP2 Result, MPN/100mL	MCSP3 Result, MPN/100mL
			Measurement	Measurement
2/10/2019	3,550	320 STV	-	-
2/13/2019	770.1	320 STV	-	-
2/26/2019	365.4	320 STV	-	-
5/9/2019	119	100	-	-
	101.2	GM		
5/16/2019	2,489	320 STV	22,820	34,480
	2,098	320 STV	15,150	34,480
5/20/2019	201	100	4,430	1,413.6
	122	GM		
6/12/2019	435.2	320 STV	-	-
	10	-		
6/26/2019	2,187	320 STV	-	-
7/10/2019	3,255	320 STV	-	-
	1,986.3	320 STV		
9/11/2019	920.8	320 STV	-	-
9/16/2019	32,550	320 STV	-	27,230
11/27/2019	5,290	320 STV	-	-
12/11/2019	980.4	320 STV	-	448
	388	320 STV		
12/23/2019	2,755	320 STV	2,613	2,254
	1,553.1	320 STV		

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Sample Date	MCSP4/ Downstream Exceedance, MPN/100mL	WQO	MCSP2 Result, MPN/100mL	MCSP3 Result, MPN/100mL
			Measurement	Measurement
1/9/2020	1,413.6	320 STV	-	1,986.3
1/16/2020	3,873	320 STV	703	-
	88.8	-		
1/17/2020	537	320 STV	1,723	520
1/27/2020	132	100 GM	1,565	309
3/16/2020	2,812	320 STV	920.8	920.8
	2,720	320 STV		
3/17/2020	10,462	320 STV	1,935	414
	3,890	320 STV		325.5
3/25/2020	1,565	320 STV	960	512
	135.4	100 GM		
3/26/2020	34.1	100 GM	788	42
	20			10
4/6/2020	11,199	320 STV	1,722	1,334
	5,040	320 STV		
4/7/2020	2,481	320 STV	512	1,187
	2,419.6	320 STV		1,046.2
4/8/2020	648.8	320 STV	-	-
4/20/2020	110	100 GM	-	450
4/23/2020	187	100 GM	-	-
4/27/2020	262	100 GM	-	-
4/30/2020	213	100 GM	-	-

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Sample Date	MCSP4/ Downstream Exceedance, MPN/100mL	WQO	MCSP2 Result, MPN/100mL	MCSP3 Result, MPN/100mL
			Measurement	Measurement
5/5/2020	85	100 GM	-	-
5/12/2020	410.6	100 GM	-	-
	86			-
5/13/2020	648.8	320 STV	-	-
	189	100 GM		-
5/18/2020	26,130	320 STV	34,410	24,196
	12,460	320 STV		12,230
5/19/2020	15,290	320 STV	24,196	21,870
	3,441	320 STV		12,033
5/28/2020	1,860	320 STV	-	6,867
12/17/2020	Absent	320 STV	Absent	Absent

Table 5. Twenty-five(25) Past Violations of Small MS4 Permit's Discharge Prohibition - Metals

Sample Date	MCSP2 Result	WQO Exceeded	MCSP3 Result	WQO Exceeded
Aluminum, Total, µg/L (WQO 200)				
5/16/2019	1,700	Yes	1,900	Yes
9/16/2019	-	-	3,400	Yes
1/9/2020	-	-	2,100	Yes
3/16/2020	2,200	Yes	2,500	Yes
5/18/2020	-	-	3,200	Yes
12/17/2020	2,380	Yes	1,810	Yes
Iron, Total, µg/L (WQO 300)				
5/16/2019	4,500	Yes	4,000	Yes
9/16/2019	-	-	9,000	Yes
1/9/2020	-	-	3,900	Yes
3/16/2020	2,600	Yes	1,100	Yes
5/18/2020	-	-	7,700	Yes
12/17/2020	7,170	Yes	3,490	Yes
Lead, Total, µg/L (WQO 3.2)				
12/17/2020	21.4	Yes	9.6	Yes
Zinc, Total, µg/L (WQO 120)				
5/16/2019	73	No	270	Yes
9/16/2019	-	-	340	Yes
1/9/2020	-	-	160	Yes
5/18/2020	-	-	120	Yes
12/17/2020	83.7	No	177	Yes

**Table 6. Fourteen (14) Past Violations of Small MS4
Permit's Receiving Water Limitations - Metals**

Sample Date	MCSP4/ Downstream Exceedance	WQO Exceeded	MCSP2 Result	MCSP3 Result
Aluminum, Total, µg/L (WQO 200)				
9/16/2019	5,700	Yes	-	3,400
1/9/2020	1,200	Yes	-	2,100
3/16/2020	1,900	Yes	2,200	2,500
5/18/2020	1,400	Yes	-	3,200
12/17/2020	2,960	Yes	2,380	1,810
Iron, Total, µg/L (WQO 300)				
5/16/2019	540	Yes	4,500	4,000
9/16/2019	15,000	Yes	-	9,000
1/9/2020	2,100	Yes	-	3,900
3/16/2020	2,400	Yes	2,600	1,100
5/18/2020	3,600	Yes	-	7,700
12/17/2020	4,290	Yes	7,170	3,490
Lead, Total, µg/L (WQO 3.2)				
12/17/2020	11.5	Yes	21.4	9.6
Zinc, Total, µg/L (WQO 120)				
9/16/2019	410	Yes	-	340
12/17/2020	157	Yes	-	177

Table 7. Ten (10) Ongoing Discharge Events from Facility

Event No.	Date(s) of discharge to Mule Creek	Volume of Discharge (gallons)
1.	January 4 - 5, 2021	238,488
2.	January 22 - February 3, 2021	11,126,134
3.	February 11 - 16, 2021	1,305,260
4.	March 5 - 6, 2021	43,887
5.	March 9 - 11, 2021	282,342
6.	March 14 - 16, 2021	393,840
7.	March 18 - 19, 2021	1,227,103
8.	October 20- 27, 2021	8,003,962
9.	November 8 - 10, 2021	209,712
10.	December 9 - 31, 2021	7,321,854
11.	March 15 - 21, 2022	148,334
12.	March 27 - 29, 2022	168,699

**Table 8. Nine (9) Ongoing Violations of Small MS4 Permit's
E. coli Discharge Prohibition - STV**

Sample Date	WQO	MCSP5 Result , MPN/100mL		MCSP6 Result , MPN/100mL	
		Measurement	Exceeds ¹	Measurement	Exceeds ¹
1/27/2021	320 STV	Present	P	Present	P
2/2/2021	320 STV	Present	P	Present	P
3/10/2021	320 STV	Present	P	Present	P
3/15/2021	320 STV	Present	P	Present	P
3/19/2021	320 STV	Present	P	Present	P
10/22/2021	320 STV	2419.6	Yes	2419.6	Yes
11/9/2021	320 STV	1732.9	Yes	2419.6	Yes
12/9/2021	320 STV	2419.6	Yes	2419.6	Yes
3/15/2022	320 STV	214.2	No	2419.6	Yes
3/28/2022	320 STV	547.5	Yes	2419.6	Yes

¹ Yes = Exceedance; No = No exceedance; P = The laboratory reported the presence of E. coli in the sample, but did not provide a numeric value, therefore an exceedance cannot be determined.

**Table 9. Five (5) Ongoing Violations of Small MS4 Permit's
Receiving Water Limitations - *E. coli* STV**

Sample Date	MCSP4/ Downstream Exceedance, MPN/100mL	WQO	MCSP5 Result, MPN/100mL	MCSP6 Result, MPN/100mL
			Measurement	Measurement
1/27/2021	Present	320 STV	Present	Present
2/2/2021	Present	320 STV	Present	Present
2/12/2021	Present	320 STV	-	-
3/10/2021	Present	320 STV	Present	Present
3/15/2021	Present	320 STV	Present	Present
3/19/2021	Present	320 STV	Present	Present
10/22/2021	2,419.6	320 STV	2419.6	2419.6
11/9/2021	1,732.9	320 STV	1732.9	2419.6
12/9/2021	2,419.6	320 STV	2419.6	2419.6
3/15/2022	2419.6	320 STV	214.2	2419.6
3/28/2022	2419.6	320 STV	547.5	2419.6

**Table 10. Seventy-seven (77) Ongoing Discharge Violations-
Metals**

Sample Date	MCSP5 Result	WQO Exceeded (Yes)	MCSP6 Result	WQO Exceeded (Yes)
Aluminum, Total, µg/L (WQO 200)				
1/27/2021	3,620	Yes	4,100	Yes
2/2/2021	10,600	Yes	8,170	Yes
3/10/2021	3,230	Yes	1,590	Yes
3/15/2021	8,120	Yes	11,800	Yes
3/19/2021	3,780	Yes	3,330	Yes
10/22/2021	11,000	Yes	9,800	Yes
11/9/2021	4,400	Yes	3,000	Yes
12/9/2021	7,700	Yes	27,000	Yes
3/15/2022	3,800	Yes	4,500	Yes
3/28/2022	1,300	Yes	1,600	Yes
Iron, Total, µg/L (WQO 300)				
1/27/2021	4,760	Yes	5,600	Yes
2/2/2021	5,490	Yes	5,290	Yes
3/10/2021	1,430	Yes	880	Yes
3/15/2021	3,950	Yes	7,660	Yes
3/19/2021	2,060	Yes	2,090	Yes
10/22/2021	8,600	Yes	9,700	Yes
11/9/2021	3,400	Yes	2,300	Yes
12/9/2021	5,200	Yes	32,000	Yes
3/15/2022	2,000	Yes	2,800	Yes
3/28/2022	770	Yes	970	Yes
Manganese, Total, µg/L (WQO 50)				
1/27/2021	43.1	No	109	Yes
2/2/2021	54	Yes	78	Yes
3/10/2021	16.6	No	23.8	No
3/15/2021	53	Yes	106	Yes
3/19/2021	21.5	No	39.9	No
10/22/2021	97	Yes	190	Yes
11/9/2021	59	Yes	58	Yes
12/9/2021	87	Yes	520	Yes
3/15/2022	54	Yes	110	Yes
3/28/2022	<6	-	54	Yes

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Sample Date	MCSP5 Result	WQO Exceeded (Yes)	MCSP6 Result	WQO Exceeded (Yes)
Copper, Dissolved, µg/L (WQO 9)				
1/27/2021	13.1	Yes	16.3	Yes
2/2/2021	6.4	No	6	No
3/10/2021	7.1	No	8.6	No
3/15/2021	8	No	8.9	No
3/19/2021	8.5	No	12.9	Yes
10/22/2021	22	Yes	29	Yes
11/9/2021	<20	-	<20	-
12/9/2021	<20	-	<20	-
3/15/2022	<14	-	<14	-
3/28/2022	<14	-	<14	-
Lead, Dissolved, µg/L (WQO 2.5)				
1/27/2021	6.9	Yes	6.3	Yes
2/2/2021	<5	-	<5	-
3/10/2021	<5	-	<5	-
3/15/2021	<5	-	<5	-
3/19/2021	44.5	Yes	44.5	Yes
10/22/2021	<50	-	<50	-
11/9/2021	<50	-	<50	-
12/9/2021	<50	-	<50	-
3/15/2022	<7	-	<7	-
3/28/2022	<7	-	<7	-
Zinc, Dissolved, µg/L (WQO 117)				
1/27/2021	103	No	669	Yes
2/2/2021	176	Yes	169	Yes
3/10/2021	131	Yes	363	Yes
3/15/2021	224	Yes	317	Yes
3/19/2021	182	Yes	334	Yes
10/22/2021	14	No	290	Yes
11/9/2021	77	No	140	Yes
12/9/2021	67	No	160	Yes
3/15/2022	90	No	390	Yes
3/28/2022	110	No	320	Yes

Table 11. Twenty-nine (29) Ongoing Violations of Small MS4 Permit's Receiving Water Limitations - Metals

Sample Date	MCSP4/ Downstream	WQO Exceeded	MCSP5	MCSP6
Aluminum, Total, µg/L (WQO 200)				
1/27/2021	3,060	Yes	3,620	4,100
2/2/2021	5,460	Yes	10,600	8,170
2/12/2021	1,440	Yes	-	-
3/10/2021	300	Yes	3,230	1,590
3/15/2021	3,740	Yes	8,120	11,800
3/19/2021	1,010	Yes	3,780	3,300
10/22/2021	8,300	Yes	11,000	9,800
11/9/2021	1,200	Yes	4,400	3,000
12/9/2021	20,000	Yes	7,700	27,000
3/15/2022	2,000	Yes	3,800	4,500
3/28/2022	430	Yes	1,300	1,600
Iron, Total, µg/L (WQO 300)				
1/27/2021	3,500	Yes	4,760	5,600
2/2/2021	3,380	Yes	5,490	5,290
2/12/2021	1,090	Yes	-	-
3/10/2021	272	No	1,430	880
3/15/2021	2,260	Yes	3,950	7,660
3/19/2021	725	Yes	2,060	2,090
10/22/2021	7,200	Yes	8,600	9,700
11/9/2021	1,100	Yes	3,400	2,300
12/9/2021	23,000	Yes	5,200	32,000
3/15/2022	1,300	Yes	2,000	2,800
3/28/2022	540	Yes	770	970
Manganese, Total, µg/L (WQO 50)				
1/27/2021	42.1	No	43.1	109
2/2/2021	48.2	No	54	78
2/12/2021	16.7	No	-	-
3/10/2021	13.1	No	16.6	23.8
3/15/2021	44.5	No	53	106
3/19/2021	15.6	No	21.5	39.9
10/22/2021	250	Yes	97	190
11/9/2021	64	Yes	59	58
12/9/2021	330	Yes	87	520

Sample Date	MCSP4/ Downstream	WQO Exceeded	MCSP5	MCSP6
3/15/2022	43	No	54	110
3/28/2022	<6	No	<6	54
Copper, Dissolved, µg/L (WQO 9)				
1/27/2021	8.7	No	13.1	16.3
2/2/2021	5	No	6.4	6.0
2/12/2021	<5	No	—	—
3/10/2021	<5	No	7.1	8.6
3/15/2021	5.4	No	8.0	8.9
3/19/2021	<5	No	8.5	12.9
10/22/2021	26	Yes	22	29
11/9/2021	<20	*	<20	<20
12/9/2021	<20	*	<20	<20
3/15/2022	<14	*	<14	<14
3/28/2022	<14	*	<14	<14
Lead, Dissolved, µg/L (WQO 2.5)				
1/27/2021	<5.0	*	6.9	6.3
2/2/2021	<5.0	*	<5	<5
2/12/2021	<5.0	*	—	—
3/10/2021	<5.0	*	<5	<5
3/15/2021	<5.0	*	<5	<5
3/19/2021	6.7	Yes	44.5	15.8
10/22/2021	<50	*	<50	<50
11/9/2021	<50	*	<50	<50
12/9/2021	<50	*	<50	<50
3/15/2022	<7	*	<7	<7
3/28/2022	<7	*	<7	<7
Zinc, Dissolved, µg/L (WQO 117)				
1/27/2021	186	Yes	103	669
2/2/2021	125	Yes	176	169
2/12/2021	50.1	No	—	—
3/10/2021	176	Yes	131	363
3/15/2021	191	Yes	224	317
3/19/2021	104	No	182	334
10/22/2021	250	Yes	14	290
11/9/2021	<20	No	77	140
12/9/2021	57	No	67	160
3/15/2022	58	No	90	390
3/28/2022	<8	No	110	320

* WQOs for dissolved lead and dissolved copper are 2.5 and 9
83653.00001\40086063.3

1 µg/L, respectively, but Defendants' laboratory used a test
2 method with reporting limits of 5.0 and 20 µg/L,
3 respectively, which are higher than the WQOs. Therefore,
4 compliance with the WQOs cannot be determined from these
5 results.

EXHIBIT 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
ROBERT T. MATSUI FEDERAL COURTHOUSE

CALIFORNIA SPORTFISHING)	
PROTECTION ALLIANCE,)	
)	
Plaintiff,)	
)	Case No.
vs.)	2:20-cv-02482-WBS-AC
)	
KATHLEEN ALLISON, etc.,)	
)	
Defendant.)	
_____)	
)	
AND ALL CROSS-ACTIONS.)	
_____)	

DEPOSITION OF PAUL ANTHONY ORTA
Friday, August 19, 2022, 9:03 a.m.
Sacramento, CALIFORNIA

Reported by:
Kayla Knowles, CSR No. 14071
Job No. 73912

August 19, 2022

1 So as part of your duties, is it part of your
2 job to make sure that -- let me strike that question.

3 When you're saying that the Water Board is
4 responsible for ensuring compliance, is there anyone at
5 CDCR that you know that's responsible for complying
6 with the small MS4 permit?

7 MR. MARSH: I am going to object to the
8 question. As I stated before, Gregor Larabee was
9 designated to speak on Topic Number 2, which concerns
10 compliance with the requirements of the MS4. Mr. Orta
11 has not been so designated; so we're going to object to
12 this line of questioning.

13 MR. CHIANG: Okay. I'll strike that question.
14 BY MR. CHIANG:

15 Q. How is an MS4 permit relevant to your position
16 at CDCR?

17 **A. We ensure the BMPs of the permit are in place.**
18 (Reporter clarification.)

19 BY MR. CHIANG:

20 Q. And what are BMPs?

21 **A. Best management practices.**

22 Q. And what kind of BMPs do you oversee?

23 **A. Their storm drain filters, education.**

24 Q. Did you say "storm drain filters"?

25 **A. Wattles, gravel bags, that type of stuff.**

August 19, 2022

1 Q. And to your understanding, what are the
2 purpose of those?

3 A. They filter sediment out.

4 Q. Sediment out of the stormwater drain?

5 A. The stormwater runoff.

6 (Reporter clarification.)

7 BY MR. CHIANG:

8 Q. And you've mentioned -- so you said sandbags.
9 What other BMPs do you implement for -- for
10 filtering storm drains?

11 A. It's gravel bags.

12 Q. Gravel bags. Sorry.

13 A. Wattles.

14 Q. And can you explain what wattles are?

15 A. They're straw filters that go around the DI.

16 MR. MARSH: Counsel, do you happen to have a
17 document that lists BMPs? It's not a memory test.

18 MR. CHIANG: Okay. Yeah, I just want to make
19 sure.

20 MR. MARSH: Sure. You can get a general
21 overview.

22 BY MR. CHIANG:

23 Q. And are there -- are there any other ways a
24 small MS4 permit is relevant to your position, other
25 than what you just told me?

August 19, 2022

1 Q. And how do you recognize this document?

2 A. **This is our second quarter report.**

3 Q. And did you review this before it was
4 submitted to the Water Board as well?

5 A. **Yes.**

6 Q. And I just want to direct your attention to
7 paragraph 5. That's on page 6. It's called
8 "Stormwater Release Notifications." And in that
9 paragraph, it mentions opening the main junction vault
10 and the secondary junction vault.

11 Are you familiar with what those vaults are
12 referring to?

13 A. **Yes.**

14 Q. And what are those?

15 A. **Those are our outfalls.**

16 Q. And what are the purposes of the junction
17 vaults?

18 A. **That's where all of the stormwater is
19 collected and entered into the bioswales.**

20 Q. And when do these gates open?

21 A. **When there's a rain event.**

22 (Reporter clarification.)

23 BY MR. CHIANG:

24 Q. Is it any rain event, or is there, like, a
25 certain rain event that would require it to be opened?

August 19, 2022

1 **A. It's a certain rain event.**

2 Q. And do you know what that is?

3 **A. It is 1/10 in an hour, 3/10 in 24 hours.**

4 Q. And I want to direct your attention to

5 Table 4. That's on paragraph 4 on page 4.

6 And do you see what this table is measuring?

7 Do you understand what it's measuring?

8 **A. Yes.**

9 Q. And what is it measuring?

10 **A. This is the flow meters at the outfalls.**

11 Q. So is it measuring -- so what is it measuring
12 exactly? Could you explain that to me?

13 **A. It's measuring water flow.**

14 Q. And is it when water is coming when the gates
15 are open, the main junction vault gates and the
16 secondary junction vault gates?

17 **A. Yes.**

18 Q. And sorry to jump back, but could you just go
19 to paragraph 2, Table 2, on page 2?

20 And Table 2 is measuring the amount of
21 rainfall in Quarter 2 of 2022; correct?

22 **A. Yes.**

23 Q. And do you see that, for the month of May, the
24 rainfall was 0?

25 **A. Yes.**

August 19, 2022

1 **A. Without reviewing the report, I would not**
2 **know.**

3 Q. And the storage water collection system at
4 Mule Creek State Prison discharges into Mule Creek; is
5 that correct?

6 **A. Yes.**

7 Q. And how many outfalls are there in the
8 stormwater collection system?

9 **A. There are two.**

10 Q. Okay. And what are those outfalls referred to
11 as?

12 **A. I'll have to look at the map for the names of**
13 **them.**

14 Q. Okay. And when you say -- let's see.
15 Let's -- I can refer you to Exhibit 6, which was the --
16 the exhibit with a bunch of diagrams and maps. Do you
17 recall that exhibit?

18 MR. MARSH: Is it okay if we use mine?

19 MR. CHIANG: Yeah.

20 BY MS. MAHARG:

21 Q. And can you point me to a diagram or map there
22 that has the outfalls?

23 **A. So we have them here and here.**

24 Q. Okay. Can you orally explain to me which
25 diagram you're looking at?

August 19, 2022

1 **A. So this is --**

2 MR. MARSH: The figure.

3 **THE WITNESS: Figure 1-5.**

4 BY MS. MAHARG:

5 Q. Okay.

6 **A. So MCSP2.**

7 Q. Okay.

8 **A. And MCSP3.**

9 Q. And you also have -- these outfalls have also
10 been referred to as a "main outfall" and a "secondary
11 outfall"?

12 **A. Yes.**

13 Q. MCSP2, is that the main outfall or the
14 secondary outfall?

15 **A. That's the secondary.**

16 Q. And MCSP3 is the main outfall?

17 **A. Yes.**

18 Q. And if you can refer back, again, to page 1 of
19 Exhibit 19, the program effectiveness assessment and
20 improvement plan.

21 On the first page of that, it says "number of
22 outfalls," and then it says 11. Do you see where I'm
23 talking about?

24 **A. What page is that?**

25 Q. Just the first page of that document.

August 19, 2022

1 rain events that you stated, there are slide gates that
2 are intended to stop discharges from the stormwater
3 collection system. Did I state that correctly?

4 **A. They are not water-type gates.**

5 Q. And could you explain to me what you mean by
6 "water-type gates"?

7 **A. They don't -- they don't seal completely.**
8 **They're not designed to be 100 percent sealed.**

9 Q. Okay. And so does that mean when the slide
10 gates are down that water -- liquid or water that's in
11 the stormwater collection system can pass through those
12 gates?

13 **A. Yes.**

14 Q. And can you -- my understanding is those slide
15 gates are located near sampling points MCSP5 and MCSP6;
16 is that correct?

17 **A. Yes.**

18 Q. And on what side -- let me see how I can ask
19 this question.

20 Are the sampling locations MCSP5 and MCSP6 on
21 the Mule Creek side of the slide gate?

22 MR. MARSH: Vague and ambiguous as to "Mule
23 Creek."

24 MS. MAHARG: Oh, I mean the creek itself, not
25 the prison.

August 19, 2022

1 **THE WITNESS: We do take samples there, yes.**

2 BY MS. MAHARG:

3 Q. And I guess what I'm trying to figure out is
4 are the -- like, are the sampling gates before or after
5 the slide -- I'm sorry. Strike that.

6 Are the sampling locations before or after the
7 slide gates? And by "before," I mean going from the
8 facility, and "after" being going towards Mule Creek?
9 Do you understand the question?

10 **A. So the samples are done after the gate.**

11 Q. Okay. That's a much clearer way of saying it.
12 Thank you.

13 And are there BMPs to reduce pollutants in
14 stormwater -- strike that.

15 Are the bioswales that are in between MCSP5
16 and MCSP6 and the outfalls -- are those -- are those
17 best management practices?

18 **A. Yes.**

19 Q. And were those bioswales in place on
20 January 14, 2019?

21 **A. Yes.**

22 Q. And has the facility made any changes to the
23 bioswale since then?

24 **A. No.**

25 Q. And how did the facility design the bioswale?

August 19, 2022

1 **A. I couldn't answer that. That was -- that was**
2 **done long -- long before, when the institution was**
3 **built -- or while the institution was built.**

4 Q. Okay. And since January 14, 2019, has CDCR
5 evaluated the effectiveness of the bioswales in terms
6 of reducing pollutant concentrations?

7 **A. I wouldn't know that answer.**

8 Q. And what BMPs, if any, does Mule Creek State
9 Prison implement to reduce bacteria in stormwater
10 discharge?

11 MR. MARSH: Calls for expert opinion.

12 **THE WITNESS: Yeah, I wouldn't know what every**
13 **BMP pulls out of.**

14 BY MS. MAHARG:

15 Q. Okay. You have been designated by CDCR to
16 speak to the design implementation and specific
17 location in the facility of all stormwater best
18 management practices employed by you and the pollutants
19 intended to be addressed by each best management
20 practice.

21 Are you saying that you cannot answer
22 questions related to what BMPs are intended to address
23 specific types of pollutants?

24 **A. The BMPs that I know of are to reduce**
25 **sediment.**

August 19, 2022

1 volumes?

2 **A. We have flow meters on our irrigation lines**
3 **and flow meters at our outfalls.**

4 Q. Okay. And, Mr. Orta, you can put away
5 Exhibit 19. And I want you to go back to Exhibit 5,
6 which is the SHN report. I don't know what tab that
7 is; so...

8 MR. MARSH: It's all right. I've got it.
9 He's not using tabs.

10 MS. MAHARG: Oh, great. Neither am I.

11 MR. MARSH: Just counsel.

12 BY MS. MAHARG:

13 Q. Okay. So I would ask you to refer to page 11
14 and Section 2.3. And that refers to a timeline of
15 changes made to the stormwater and sanitary sewer
16 collection systems. Do you see that section?

17 **A. Yes.**

18 Q. Okay. And that says that a summary has been
19 included in the SHN report, and I'm just wondering:
20 Has that list of changes to the stormwater and sanitary
21 sewer collection systems been updated since this report
22 was published?

23 **A. There have been no changes since it was**
24 **published.**

25 Q. Okay. And then you can turn next to page 37.

August 19, 2022

1 And Section 3.3, that first section notes operational
2 changes that affect non-stormwater discharges, and then
3 it has three bullet points. Do you see that?

4 **A. Yes.**

5 Q. And has Mule Creek State Prison taken any
6 other actions to reduce non-stormwater discharges since
7 this report?

8 **A. We have done a SRP for irrigation**
9 **replacement -- to replace the whole system.**

10 Q. And has that SRP been approved?

11 **A. It is -- I'm not -- I wouldn't be able to**
12 **speak to that. That would be facilities management.**

13 Q. Okay. And just because I'm not in government,
14 can you walk me through the SRP process?

15 **A. Yes. So the SRP is created as a special**
16 **repair project. It gets submitted to facilities**
17 **management branch. They would review the SRP,**
18 **prioritize it, and submit for budget -- budget funding.**
19 **Once that was approved, it would go to either a**
20 **consultant or an engineer for plans, drafted, and then**
21 **it would go out to bid for a contractor to create**
22 **the -- or complete the work.**

23 Q. And when you say a "special repair project,"
24 that implies that some repairs are not done under SRPs.
25 Is that a correct characterization?

August 19, 2022

1 Q. Can you give me examples of what "minor
2 repairs" are?

3 A. If we had a drain inlet break or if we had
4 maybe -- depending on where the location is at and the
5 size, we might repair a pipe.

6 Q. Okay. And just going back to my question
7 that -- I'm not sure you had finished answering before
8 I started asking you other questions. I had asked, has
9 Mule Creek State Prison taken any other actions to
10 reduce non-stormwater discharges since this report, and
11 you mentioned the irrigation replacement system.

12 Are there any other projects, other than the
13 irrigation replacement system, that Mule Creek State
14 Prison has implemented to reduce non-stormwater
15 discharges?

16 A. No.

17 Q. And the three operational changes mentioned in
18 the SHN report on page 37, has CDCR or Mule Creek State
19 Prison evaluated the effectiveness of those measures?

20 A. Yes.

21 Q. And where is that documented?

22 A. Those would be in our inspection reports.

23 Q. And the first bullet is a facility-wide
24 memorandum prohibiting the washing down of paved areas
25 and other illicit discharges.

August 19, 2022

1 Since that memorandum went out, has CDCR noted
2 any occasion where washing down of paved areas has
3 occurred?

4 **A. None that I'm aware of.**

5 Q. And the second bullet refers to the shutdown
6 of the hydronic system, and the report in another area
7 notes that the hydronic system had caused defects in
8 brakes. Is that your understanding?

9 **A. Yes.**

10 Q. And has CDCR fixed the brakes and defects
11 caused by the hydronic system?

12 **A. That is part of the SRP replacement project**
13 **for this.**

14 Q. So that -- is that included in the same SRP as
15 the irrigation replacement system?

16 **A. The irrigation is separate.**

17 MS. MAHARG: It's been about an hour and a
18 half; so let's go off the record.

19 (Off the record.)

20 BY MS. MAHARG:

21 Q. Going back to Exhibit 5, the SHN report.
22 Would you please turn to 39 -- page 39? And 39 -- I am
23 going to try to short-circuit this and not talk about
24 every sentence.

25 So 39 through 42 includes an explanation of

August 19, 2022

1 the CCTV inspections that were done in the stormwater
2 collection system and the sanitary sewer system. Is
3 that a correct characterization of what is documented
4 in these pages?

5 **A. Yes.**

6 Q. Okay. And other than the CCTV with the small
7 camera that you described previously, has there been
8 any other CCTV inspections done in these systems since
9 the work that was done to prepare the SHN report?

10 **A. No.**

11 Q. And, Mr. Orta, please turn to page 55. And if
12 you can take a minute to familiarize yourself with
13 Table 3.5-9, which is on page 55, and Table 3.5-10,
14 which is on page 56, and just let me know when you've
15 kind of gotten the lay of the land.

16 **A. Okay.**

17 Q. Okay. And MCSP6 is located before a bioswale;
18 is that correct?

19 **A. Yes.**

20 Q. And MCSP3 is after MCSP6 in the bioswale; is
21 that correct?

22 **A. Yes.**

23 Q. And previously, I asked you whether the
24 bioswales were best management practices. Do you
25 recall that?

August 19, 2022

1 **A. Yes.**

2 Q. Okay. And do the bioswales provide treatment?
3 And what I mean by "provide treatment" is are they
4 intended to reduce pollutant concentrations?

5 **A. That would be a question for an engineer for**
6 **the bioswale.**

7 Q. Okay. So you don't know the intent of the
8 BMP -- for the bioswale BMP in terms of pollutant
9 reduction?

10 **A. No, I wouldn't know what that would be.**

11 Q. Okay. Okay. I am going to move on.

12 Can you please turn to page 104? And on
13 page 104, Section 5.2, and page 105, Section 5.3, it
14 refers to repairs that are summarized in Appendix 23.
15 And, actually, let's just pass out that appendix now
16 and mark that as an exhibit.

17 MS. MAHARG: Weiland, do you have that?

18 MR. CHIANG: Yeah. That's the recommended
19 actions; right?

20 MS. MAHARG: Yes. And I think we're marking
21 that as Exhibit 20.

22 (Exhibit No. 20 marked for identification.)

23 BY MS. MAHARG:

24 Q. And, Mr. Orta, before you start reviewing, in
25 the interest of saving trees, I did not print out all

August 19, 2022

1 the diagrams in this exhibit; so this exhibit is only
2 complete through 23-2, or I only printed out that
3 table. But with that representation, do you recognize
4 this document?

5 **A. Yes.**

6 Q. Okay. And what is this document?

7 **A. This is a list of repairs needed.**

8 Q. And those are repairs to the storm drain
9 system and the sanitary sewer system; is that correct?

10 **A. Yes.**

11 Q. And have any of these repairs, to date, been
12 completed?

13 **A. No.**

14 Q. And are these part of the SRP that you
15 referred to previously?

16 **A. Yes.**

17 Q. And if I recall correctly, you don't have a
18 date where you anticipate that SRP being approved, do
19 you?

20 **A. No, I do not have a date on that. That would
21 be facilities management.**

22 Q. Okay. And would you consider repair of the
23 storm drain system best management practice?

24 **A. Yes.**

25 Q. And the same question for the sanitary sewer

August 19, 2022

1 And the flow -- sorry.

2 Let me actually have you look at Section 5 on
3 page 6 first. And this section reports that MCSP staff
4 opened the main junction vault and the secondary
5 junction vault stormwater gates to allow stormwater
6 releases to the vegetated swales that lead to Mule
7 Creek on April 11, 2022; is that correct?

8 **A. Yes.**

9 Q. Okay. And so is Mule Creek State Prison
10 required to report whenever it opens the stormwater
11 gates?

12 **A. We are not.**

13 Q. Okay. And why or when does Mule Creek State
14 Prison have to report when it opens the stormwater
15 gate?

16 **A. So let me -- we notify -- it's not a report,**
17 **but we notify the board when we open the gates.**

18 Q. Okay. And you notify the board whenever you
19 open the gates?

20 **A. Yes.**

21 Q. Okay. And so during this quarter, the gates
22 were opened only on this event that started on
23 April 11th; is that correct?

24 **A. Yes.**

25 Q. Okay. And then going back to Table 4.

August 19, 2022

1 So the gates were not opened in May and June
2 of that quarter; is that correct?

3 **A. This doesn't show when we closed the gates.**

4 Q. Okay. Sorry. I may have asked you to move
5 too soon. Let's go back to Section 5. I apologize.

6 This states that the gates were opened on
7 April 11th and that they stayed open for 15 days. Am I
8 reading Table 5 correctly?

9 **A. Yes.**

10 Q. And so just doing quick math here, it looks
11 like the gates were closed on April 26th or 27th?

12 **A. Couldn't be for sure, but yeah.**

13 Q. When it says "duration days," does that mean
14 consecutive days?

15 **A. Yes.**

16 Q. And let's just turn back to Table 4, and we
17 can just speak to June. It said that it reports
18 1,361 gallons of flow at MCSP6 and MCSP5.

19 And since the gates weren't open that month, I
20 guess I just -- I guess I'm just wondering: That flow
21 occurred when the slide gates were closed; is that
22 correct?

23 **A. From what it shows here, yes.**

24 Q. Okay. And then, Mr. Orta, if you could look
25 at Table 3-1. And --

August 19, 2022

1 MR. MARSH: Misstates the testimony.

2 THE WITNESS: Yeah, I couldn't -- I couldn't
3 speak to that.

4 BY MS. MAHARG:

5 Q. Okay. So, I mean, you've been designated for
6 the design implementation and specific location in the
7 facility of all the stormwater best management
8 practices employed by you, meaning the facility.

9 So are you saying that you can't testify as to
10 whether training inmates or educating inmates about
11 stormwater issues is a BMP today?

12 A. I could not. I don't train inmates.

13 Q. Okay. And you understand that, as part of
14 your role here today, it's not just what you do in your
15 personal capacity, but you were designated to speak to
16 specific topics as a representative of the whole -- of
17 CDCR itself. Do you understand that?

18 A. Yeah.

19 Q. Okay. So are you aware of any programs that
20 would ensure inmates don't throw items into the
21 stormwater collection system?

22 A. I am not aware.

23 Q. And if you can turn to page 8, and I would
24 refer you to the Section F.5.D2, the field sampling to
25 the test illicit discharges. And if you could just

August 19, 2022

1 BY MS. MAHARG:

2 Q. Okay. And do you -- I guess, what is the
3 stormwater master plan that's referred to on this
4 slide?

5 A. This is another reference that we use for our
6 SWPPP.

7 Q. Okay. And SWPPP -- S-W-P-P-P?
8 (Reporter clarification.)

9 BY MS. MAHARG:

10 Q. Okay. And so how does the stormwater master
11 plan differ from the MS4 compliance plan that we're
12 looking at right now?

13 A. It identifies a few other areas of BMPs to be
14 in place.

15 Q. So it has -- so sorry. Let me make sure I
16 understand.

17 It has additional BMPs?

18 A. Yes. It's another reference that we use.

19 Q. So do you use the stormwater master plan and
20 the MS4 compliance plan similarly?

21 A. Yes.

22 Q. And so if a person were to want to know a
23 comprehensive list of all the BMPs that are implemented
24 at the site, would they -- should they refer to both
25 the MS4 compliance plan and the stormwater master plan

August 19, 2022

1 to do that?

2 **A. Yes.**

3 Q. Okay. And the stormwater master plan that's
4 on this slide is dated March 7, 2018.

5 Are you aware of a more recent version of the
6 stormwater master plan?

7 **A. I am not aware of a more recent version.**

8 Q. Okay. And if you go five more pages, there is
9 a slide referred to as MCSP, quote, hot spots, unquote.

10 **A. Okay.**

11 Q. And on the next slide, I think it's related --
12 or I guess I should say, is it related to the MCSP hot
13 spots?

14 **A. Yes.**

15 Q. Okay. And are the "hot spots" another term
16 for the high-priority storm drain systems?

17 **A. Yes.**

18 Q. Okay. And can you explain to me what a hot
19 spot or -- what a hot spot is within this context?

20 **A. These would be areas that we would -- we would
21 pay a little more attention to the BMPs in place.**

22 Q. And how do you pay -- what does "pay a little
23 more attention to" mean?

24 **A. So these are checked daily by the local
25 occupants of these areas.**

August 19, 2022

1 guess -- sorry. Strike that.

2 Does the non-stormwater discharge plan address
3 only irrigation as a source of non-stormwater?

4 **A. It addresses the irrigation, yes.**

5 Q. Okay. And are there any other plans that CDCR
6 or Mule Creek State Prison has prepared to address
7 other sources of non-stormwater?

8 **A. I couldn't answer that.**

9 Q. But are you aware of any other plans?

10 **A. I am not aware.**

11 Q. On the first page of the plan under Section A,
12 I guess at A4 where it starts "MCSP has adjusted the
13 irrigation schedule," do you see that point -- or that
14 sentence?

15 **A. Yes.**

16 Q. And how did MCSP figure out the revised
17 irrigation schedule?

18 **A. So our staff observed the irrigation system
19 operate in the evening hours to limit runoff.**

20 Q. Okay. And when did Mule Creek State Prison
21 adjust the irrigation schedule?

22 **A. I'd have to look back on what days we did
23 that. I couldn't tell you off the top of my head.**

24 Q. Okay. And so that -- so if I'm understanding
25 your characterization, it was -- the changes were

August 19, 2022

1 intended to eliminate runoff from irrigated landscape
2 areas; is that correct?

3 **A. Yes.**

4 Q. And since adjusting the irrigation schedule,
5 has Mule Creek State Prison had irrigation runoff off
6 of landscaped areas?

7 **A. It says in Item 4 we have not irrigated since**
8 **July 1, 2021, per the governor's order.**

9 Q. Okay. And this was submitted on September 1,
10 2021.

11 Has Mule Creek State Prison irrigated at all
12 since September 1, 2021?

13 **A. That order still stands; so we have not.**

14 Q. Okay. So, Mr. Orta, can you refer back to
15 Exhibit 10, please? And that is the second quarter
16 2022 monitoring report. And let me know when you have
17 that.

18 **A. Okay.**

19 Q. Okay. If you can look on Table -- at Table 3.
20 And on Table 3, it's reporting irrigation flows in May
21 and June of 2022 at somewhere between 2 million and
22 3 million gallons. Do you see that?

23 **A. Yes.**

24 Q. And so I'm just trying to reconcile your
25 statement that Mule Creek State Prison hasn't irrigated

August 19, 2022

1 since September 1st -- since July 1st, 2021, and then
2 also reporting irrigating in May and June of 2022. Can
3 you explain that discrepancy? Or explain -- it might
4 not be a discrepancy. I am just trying to reconcile
5 those two pieces of information.

6 **A. So these flows could have either been us**
7 **testing our system, or we had an event where we**
8 **irrigated to green up the institution a little bit for**
9 **an event.**

10 Q. Okay. So are you changing your testimony that
11 Mule Creek State Prison has not irrigated since July 1,
12 2021?

13 **A. Yes.**

14 Q. Okay. And so would it be -- to determine how
15 much Mule Creek has irrigated, would it be appropriate
16 to look at these monitoring reports?

17 **A. Yes, depending on if it was, you know, a**
18 **system failure of some sort. That would show a flow as**
19 **well.**

20 Q. Okay. So if a system failure -- a system
21 failure would register as an irrigation flow that's
22 reported in the monitoring report. Is that what you're
23 saying?

24 **A. Yes.**

25 Q. And have you been aware of a system failure

EXHIBIT 3

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF
CALIFORNIA ROBERT T. MATSUI FEDERAL COURTHOUSE

---oOo---

CALIFORNIA SPORTFISHING	:	
PROTECTION ALLIANCE,,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	No. :20-cv-02482-WBS-AC
	:	
KATHLEEN ALLISON,	:	
	:	
Defendant.	:	
_____	:	

DEPOSITION OF GREGOR LARABEE

Sacramento, California

August 16, 2022

REPORTER: BRIJANNE BYRD, CSR 14279

August 16, 2022

1 it goes onto page three.

2 Do you agree that the requirement -- or the plan was
3 to install flow monitoring structures at Mule Creek MS4
4 outfalls, identified as MCSP2 and MCSP3?

5 **A. Yes.**

6 Q. And was that done?

7 **A. It's in progress still at this moment.**

8 Q. Okay. And can you describe the project inside the
9 monitoring structures?

10 **A. I'm sorry. Can you say that again?**

11 Q. Sure. How is it being installed -- the monitoring
12 structures.

13 **A. Yeah. There's two structures, one at each point.**

14 **They are basically prefabricated wiers that are**
15 **installed in the vegetated swales that convey water from**
16 **the perimeter culvert at Mule Creek prison facility out**
17 **the point of discharge to Mule Creek. So they are just**
18 **a few feet upstream of the creek's, you know, bank -- I**
19 **guess is the best word.**

20 **Those are placed in accordance with the design**
21 **layout by SHN, the consultant. So they basically laid**
22 **it out; surveyed the structure site; provided a working**
23 **drawing for the institution to follow in setting those**
24 **structures in place and then securing them so they are**
25 **secured by concrete that basically keep the structure**

August 16, 2022

1 the stormwater collection system was inspected in 2019.
2 And I don't understand the difference between what those
3 two sentences are saying.

4 Can you explain that to me?

5 A. Well, I can't explain it with certainty. My
6 speculation is that it is additional lineal feet
7 conducted at 17,480. The number above, 20,252 is
8 representative of some of the lines that were
9 reinspected for a second time following the 2018 effort.

10 So I think that's what this is saying here.

11 Q. And why would stormwater line be reinspected in 2019
12 if it had already been inspected in 2018?

13 A. I honestly couldn't tell you the specifics why that
14 was the case, but I would imagine that's probably tied
15 to just ease of putting the camera into the system and
16 running it further than it had run previously.

17 There may have been a desire for them to just check
18 on things they had seen in the previous year as well.
19 I'm sorry if either of those are exactly the reason, but
20 those are the two most probable causes that come to my
21 mind.

22 Q. Moving on, the sanitary sewer system physical
23 assessment of section 3.4.2.

24 On page 41. 3.4.2.1 states that dye test results
25 found no evidence that cross connection between the

August 16, 2022

1 stormwater and sanitary sewer collection systems exist
2 and indicated the sanitary sewer system is plumbed
3 correctly.

4 Again, just to confirm, that's referring to the
5 direct cross connection than the definition you provided
6 previously? Correct?

7 **A. I'm sorry. Can you say that again?**

8 Q. Sure.

9 I'm just clarifying that the cross connections
10 referred to in that sentence -- well, I will just let
11 you redefine it for us. Can you again define how cross
12 connection is used in that sentence?

13 **A. Which sentence are you referring to from this? It's**
14 **3421?**

15 Q. Yeah. The second to last sentence.

16 **A. Second to last. I'm sorry. I was going to the**
17 **second sentence. I missed the "last."**

18 **I interpret this as there were no physical**
19 **connection of a sanitary sewer to a stormwater.**

20 Q. Okay. And from this CCTV inspection portion
21 3.4.2.3, did CDCR -- did the CCTV inspection include
22 inspecting pipes less than six inches in diameter?

23 **A. Of the sanitary sewer system?**

24 Q. Yes, sir.

25 **A. I don't see any indication one way or the other as**

EXHIBIT 4



Region 9 Enforcement Division
75 Hawthorne Street
San Francisco, CA 94105

Inspection Date(s):	November 19, 2020		
Time:	Entry: 10:35 AM	Exit: 3:00PM	
Media:	Water		
Regulatory Program(s)	Clean Water Act NPDES, Small MS4 Municipal General Permit		
Company Name:	Mule Creek State Prison		
Facility or Site Name:	Mule Creek State Prison		
Site Physical Location:	4001 Highway 104 lone, CA 95640		
Geographic Coordinates:	38.36866, -120.95945		
Mailing address:	P.O. Box 409099 lone, CA 95640		
Facility/Site Contact:	Gregor Larabee	Title: Chief Engineer and Regulatory Compliance	
		Email: Gregor.larabee@cdcr.ca.gov	
Facility/Site Identifier:	National Pollutant Discharge Elimination System (NPDES) Permit CAZ496995		
NAICS:			
SIC:			
Facility/Site Personnel Participating in Inspection:			
Name	Affiliation	Title	Email
Gregor Larabee	CDCR	Chief, Environmental & Regulatory Compliance	gregor.larabee@cdcr.ca.gov
Christofer Hudgens	CDCR	Plant Manager	christofer.hudgens@cdcr.ca.gov
Anthony Orta	CDCR	Plant Supervisor	anthony.orta@cdcr.ca.gov
Anthony Stark	CDCR	Plant Supervisor	anthony.stark@cdcr.ca.gov
Terry Bettencourt	CDCR	Regional Manager, Facilities & Compliance	miles.bettencourt@cdcr.ca.gov
Estevan Fregeau	CDCR	Chief Engineer	Estevan.fregeau@cdcr.ca.gov
Gwen Erickson	SHN	Consultant	gerickson@shn-engr.com
US EPA:			
Grant Scavello	US EPA	Inspector	scavello.grant@epa.gov
John Tinger	US EPA	Inspector	tinger.john@epa.gov
Federal/State/Tribal/Local Representatives:			
Kenny Croyle	California Regional Water Board	Water Resources Control Engineer	kenny.croyle@waterboards.ca.gov
Howard Hold	California Regional Water Board	Senior Engineering Geologist	howard.hold@waterboards.ca.gov
Liz Lee	California Regional Water Board	MS4 Coordinator	elizabeth.lee@waterboards.ca.gov
Inspection Report Author:	Grant Scavello	415-972-3556	

GRANT
SCAVELLO

Digitally signed by
GRANT SCAVELLO
Date: 2021.01.28
18:08:27 -08'00'

California Department of Corrections / Mule Creek State Prison
Inspection Date: November 19, 2020

		Date:
Manager:	Eric Magnan ERIC MAGNAN	415-947-4179
	Digitally signed by ERIC MAGNAN Date: 2021.01.28 17:48:50 -08'00'	Date:

SECTION I – INTRODUCTION

I.1 Purpose of the Inspection

The purpose of the inspection was to evaluate multiple citizen complaints and accompanying documentation about the facility that was received by EPA, and to inspect the components of the wastewater and stormwater system viewable from outside the perimeter security fence.

SECTION II – FACILITY / SITE DESCRIPTION

II.1 Facility Description

Mule Creek State Prison (MCSP, Facility) is located in the City of Lone in Amador County. According to the October 2020 Mule Creek State Prison Sewer System Management Plan, the original MCSP institutional building (noted as MCSP in this report) was opened in 1987, and an additional prison building, the Mule Creek Infill Complex (MCIC), was built in 2015. The prison has level I, II, III, and IV prison facilities. The institution covers 866 acres and has a population capacity of approximately 4,270 inmates.

The MCSP sewer system is approximately 5.75 miles accumulated length, which includes 4.75 miles of gravity lines and one mile of forced main. The system piping is PVC that ranges in size from four to eighteen inches in diameter. Building piping is primarily 4-inch cast iron. All sanitary sewer waste from the original facility building is conveyed by gravity to a pump station at the southeast corner of the institution outside of the secure perimeter. A 6-inch main from the MCIC lift station transports waste from MCIC to the main lift station at MCSP. Additionally, wastewater from the neighboring Preston Youth Correctional Facility (PYCF) and the California Department of Forestry (Cal Fire) Academy join the MCSP wastewater flow just upstream of the pump station. There is one pump station for the wastewater system that services the entire Facility. This pump station is fitted with in-channel grinders and mechanical bar screens for the removal of inorganic solids (PHOTOS 1-6). Screened wastewater is then pumped via a 14-inch diameter force main to the institution's Wastewater Treatment Plant.¹ The Wastewater Treatment Plant operates under Waste Discharge Requirements (WDR) R5-2015-0129, issued by the California Regional Water Quality Control Regional Board. Item 14 of the WDR states that "the secondary disinfected effluent is discharged to the LAAs (land application areas), Effluent Storage Reservoir, or Preston Reservoir"². No discharge from the Wastewater Treatment Plant is authorized to reach surface waters.

¹ Sewer System Management Plan – Mule Creek State Prison, December 2009 (Updated October 2020), page 4.

² WDR R5-2015-0129 – California Regional Water Quality Control Board – Central Valley Region, page 3.

Additionally, Mule Creek State Prison is regulated under the NPDES General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4) Permit, Water Quality Order No. 2013-0001-DWQ (Small MS4 General Permit). The California Central Valley Regional Water Quality Control Board (Regional Board) accepted a Notice of Intent to apply for coverage under the Small MS4 General Permit on April 24, 2019. There are currently two junction vaults which serve as stormwater collection points at the Facility – the main junction vault, which flows directly and solely to the main outfall, and the secondary junction vault, which flows directly and solely to the secondary outfall. Both vaults have one set of two slide gates. When these slide gates are opened, water can pass from the vault to the outfall. These outfalls are being monitored at seven monitoring points, which are referred to in SHN Consulting reporting as “main junction vault”, “secondary junction vault”, “MCSP2”, “MCSP3”, “MCSP4/RW”, “MCSP 5”, and “MCSP 6”. The green lines on the SHN Consulting map above indicate the drainage area for the original MCSP building, and the red lines on the map indicate surface drainage channels where flow is directed after passing through either outfall.



II.2 Wastewater Sources

The wastewater treatment plant receives sewage from prison residences, industrial operations located onsite (meat packing, coffee roasting, and laundry services), wastewater from the Preston Youth Correctional Facility, and wastewater from the California Department of Forestry Fire Academy.

Stormwater from the facility discharges via two outfalls to the receiving water Mule Creek (see map in Appendix 1).

II.3 Wastewater Treatment

According to WDR items 11 and 14, the Wastewater Treatment Plant (WWTP) consists of two bar screenings, an oxidation ditch, two parallel clarifiers, an 84-inch chlorine contact pipe, a sludge belt press, sludge drying beds, an Effluent Storage Reservoir, and LAAs. After treatment in the oxidation ditch and clarifiers, the wastewater is disinfected in the chlorine contact pipe. The secondary disinfected effluent is discharged to the LAAs, Effluent Storage Reservoir, or Preston Reservoir. In item 27 of the 2015 WDR, MCSP proposed the addition of aeration to the existing oxidation ditch, addition of a third clarifier, replacement of the chlorine contact pipe

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with a chlorine contact basin, and replacement of sand and gravel sludge drying beds with concrete sludge drying beds.³ Since the WDR was adopted, these additions have been installed at the WWTP.

II.4 Compliance History

According to the California Integrated Water Quality System (CIWQS), the Regional Board filed a Cease and Desist Order on December 8, 2006 for various violations of the WDR including prohibited discharge of wastewater and overloading of the WWTP, and oversaturation resulting in spills at the Facility's LAAs. On August 21, 2007, MCSP paid a \$50,000 administrative civil liability penalty, was required to perform system improvements on its wastewater treatment system, complete a supplemental environmental project, improve LAA monitoring, and make other reporting and system improvements as a result of these violations.

CIWQS includes five Notices of Violation filed by the Regional Board between December 2016 and the present, and a 13 267 Investigative Order and 13 260 follow-up request letter filed in 2018. A February 4, 2018 13 267 Order filed by the Regional Board alleges that MCSP was discharging unpermitted stormwater to Mule Creek, and failed to obtain coverage under the Construction General Permit and Industrial General Permit. The 13 260 letter filed by the Regional Board requested documentation not provided as requested in the 13 267 Order. The Regional Board filed proposed penalty order R5-2020-XXXX in July 2020 alleging 79 days of unpermitted non-stormwater discharge from the stormwater system. The July 2020 proposed penalty order includes a monetary penalty and additional project requirements. This penalty order has not been finalized.

SECTION III – OBSERVATIONS

The inspection began with Inspector Scavello presenting his credentials to Mr. Larabee, MCSP Chief of Environmental and Regulatory Compliance. Inspector Scavello, Inspector Tinger, and Regional Board staff engineers Kenny Croyle and Howard Hold and Regional Board MS4 Coordinator Liz Lee introduced themselves to the following staff from CDCR: Christofer Hudgens, Anthony Orta, Anthony Stark, Terry Bettencourt, and Estevan Fregeau. SHN consultant Gwen Erickson was also present and introduced herself. Inspector Scavello explained that this was a compliance inspection to investigate citizen complaints which had been received by EPA about MCSP, and to inspect the components of the wastewater and stormwater system viewable from outside the perimeter security fence. Inspector Scavello consulted with MCSP staff on COVID-19 protocols to be practiced during the inspection, locations he desired to view during the inspection, and discussed the best route to do so with MCSP staff. EPA, MCSP, and Regional Board staff agreed via phone before the inspection that, due to COVID-19, the entirety of the inspection would be conducted outside of the perimeter security fencing at MCSP.

³ Summarized from WDR R5-2015-0129, items 11, 14, and 27.

Secondary Junction Vault/ Secondary Outfall/MCSP-5

EPA inspectors viewed the secondary junction vault, secondary outfall, and sample point MCSP-5 which is located approximately 50 feet from guard tower 9 (GT-9) (PHOTO 7-9). The secondary junction vault flows to the secondary outfall, and sample point MCSP-5 is located at the terminus of the secondary outfall (PHOTO 10).

At the secondary junction vault, Mr. Hudgens explained that 60 acres from inside the perimeter fence including prisoner housing and recreation areas "Facility A", "Facility B", and "Facility C" and lawn areas as shown on the map in APPENDIX 1 drain to the secondary junction vault, and that drainage to this basin is composed of stormwater and irrigation from grass areas in the prison yard. EPA Inspectors observed a slow seep of water flowing out of stormwater piping that terminates at the secondary junction vault, and Mr. Hudgens explained that this water was flow from a rain event the previous day. Mr. Hudgens explained that the two pumps shown in PHOTO 8 operate on a float, and when the junction vault fills to a high enough level the pumps are triggered on, which pumps water back to the sanitary sewer for processing through the waste treatment plant. He stated that the pumps were installed in 2018 after an enforcement order from the Regional Board, that they have a capacity of 20 gallons per minute (GPM), and that two flow meters measure the amount of flow directed back to the waste treatment plant. Mr. Hudgens commented that since the pump system has been in place, the secondary junction vault has not overtopped its capacity. Mr. Hudgens explained that, prior to the pump system being installed, a major rain event would cause the junction vault to overtop with water and back up to the area behind the junction vault. The backup was of a significant enough volume that it would reach and inundate guard tower GT-9. Mr. Stark explained that the screens in the drainage basin are cleaned after every rain event.

Mr. Fregeau stated that the wastewater treatment plant can handle storm flow at 1/10" an hour, and that both slide gates seen in PHOTO 8 will be opened in anticipation of a rain event greater than 1/10" an hour or 3/10" in 24 hours. After the inspection, Mr. Fregeau provided EPA with a written explanation on how this calculation was made, and that written explanation is presented as APPENDIX 5. Mr. Fregeau stated that both sets of slide gates at the main and secondary junction vaults were last opened at 3:15PM on Tuesday, November 17th in anticipation of a rain event above the size limitation, and that they were closed in the morning prior to the EPA inspection on November 19th. EPA Inspectors observed flow passing underneath the closed slide gates to the outfall area, and Mr. Hudgens commented that this occurs because the slide gates are not fully sealed to prevent flow underneath.

The secondary junction vault drains directly to the Secondary Outfall via two outlet pipes (PHOTO 10-11). The larger diameter, silver corrugated pipe in PHOTO 11 had a very small amount of flow, and the smaller diameter black pipe had no flow. Residual flow from the

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previous rain event can be seen pooling in front of the outfall in PHOTO 10. PHOTO 12 shows an automatic sampler at sample point MCSP-5 with sampling leads placed at the outfall pipes. Inspector Scavello asked what the purpose of the autosampler was, and Mr. Hudgens explained that MCSP's consulting company SHN installed the autosamplers to sample for human biomarkers. Ms. Erickson, the SHN consultant present during the inspection, explained that the autosamplers have been in place for between 1-1.5 years and they take grab samples during a six-hour period before, during, and after a rain event. Mr. Larabee commented that a weekly monitoring report is produced by SHN showing monitoring activities at MCSP, and that this report is produced as a result of the Regional Board 13 267 February 14, 2018 Order. An abbreviated example of this report is shown as APPENDIX 6, and includes tabulated results, along with all lab reports, for each daily sampling event during that reporting week, the daily totalized volume measurements of wastewater collected out of the entire storm water system, broken down by discharge point, the flow shall be measured with a calibrated flow meter, the amount of rain that fell over the prison, a description of any changes, improvements, or upgrades that occur, notes on any changes at the wastewater treatment plant in terms of effluent quality and treatment effectiveness, and any other additional findings or observations. After reviewing the November 20, 2020 weekly report, it is not clear that any human biomarker constituents are present in the sampling analysis. The weekly report does appear to list sampling constituents consistent with those ordered to be sampled in the Regional Board's August 6, 2020 13 383 Order to monitor surface discharges.

During the inspection Mr. Larabee commented that approximately 35,000 gallons were pumped back to the wastewater treatment plant during the last rain event (which occurred Tuesday, November 17th-Wednesday, November 18th) and approximately one million gallons total flowed through the open slide gates at both outfalls. After the inspection, Inspector Scavello verified these numbers as 40,969 gallons and 1,119,250 gallons, and total rainfall amount as 0.74" for the week ending November 20, 2020 according to the weekly monitoring report in APPENDIX 6. These total weekly values are calculated using two flowmeters on each of the two pumps as shown in PHOTO 9 and two flowmeters in each pipe exiting each junction vault as shown in PHOTO 11. After the inspection Inspector Scavello noted a value of 1,007,681 gallons as reported to the Cal OES spill reporting system⁴ for the rain event beginning November 17, 2020.

MCSP-2 and MCSP-3 Sample Points

PHOTO 13 shows the autosampler set up at the MCSP-2 sample point. This autosampler is set with the same sampling frequency as the autosampler at MCSP-5 and the other sample points,

⁴<https://w3.calema.ca.gov/operational/mal haz.nsf/f1841a103c102734882563e200760c4a/282caaeaed8d46d58825862600588641?OpenDocument&Highlight=0,mule,creek>

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and is sampled for the same parameters compiled in the weekly monitoring report. Inspectors Scavello and Tinger walked the length of the drainage channel shown in PHOTO 14 and PHOTO 15, which was not flowing but contained water.

PHOTO 16 shows the MS4 point of compliance for the MCSP-3 sample point. At the MCSP-3 sample point Inspector Scavello and Mr. Stark discussed sampling protocols. Mr. Stark explained that this sample is taken at a consistent point just downstream off of the bridge shown in the photo, and that either he or another trained operator collects a grab sample. Mr. Stark explained that training for new sampling requirements under the MS4 program are being disseminated to all operators.

PHOTO 17 shows the MCSP-3 sample point. APPENDIX 2 shows the surface drainage route from the main outfall to MCSP-3. Mule Creek connects to the MCSP drainage area shortly after the bridge shown in the background of PHOTO 17 at an estimated distance of 300 feet from sample point MCSP-3. The drainage channel in this area had wet soil but no consistent standing water at the time of inspection.

Main Junction Vault/Main Outfall/MCSP-6

PHOTO 18 shows the main junction vault, PHOTO 19 shows the main outfall, and PHOTO 20 shows the MCSP drainage channel reach directly after the main outfall. Mr. Hudgens explained that 45 acres drain to the main junction vault, and that the distance is approximately 1500' from the main outfall to MCSP-3. Mr. Hudgens also explained that major construction work on the main junction vault was completed at the end of 2019, and that this construction consisted of adding three new walls to the vault. Mr. Larabee explained that prior to this construction work the main junction vault was an open pit on the three sides that with one headwall and the two slide gates. At the time of inspection, the drainage pipes terminating into the main junction vault had no flow and both slide gates were closed (PHOTO 18).

At the main outfall, there was a small amount of flow exiting both pipes. Mr. Hudgens explained that this flow, as with the secondary outfall, is from the small amount of water that is able to seep under the slide gates. EPA Inspectors were informed that the only sampling at this outfall point is via the ISCO sampler shown in PHOTO 19 and results are included in the weekly SHN report.

Delivery Yard

EPA Inspectors viewed the delivery yard, where trucks of various sizes transport various materials for prison operations to and from the facility. At the time of inspection there were no trucks entering or exiting the delivery yard. Mr. Hudgens explained that there are six drop inlets which collect stormwater in the delivery yard. Inspector Scavello asked MCSP staff where spill

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kits for cleaning up delivery yard spills were located, and staff were not able to pinpoint the exact location. Inspector Scavello asked the staff to explain the spill response procedures if a spill occurs in the yard, and MCSP staff provided a step by step process in which a trained MCSP staff member responds to clean the spill up first if they are able to, and that the fire department responds either simultaneously to MCSP staff or directly after MCSP staff. Mr. Hudgens pointed out the location of the fire department, which is located approximately 200 feet from the yard.

Wastewater Treatment Plant Headworks

PHOTOS 1-6 show the headworks of the treatment plant at MCSP. At the time of inspection, both in-channel grinders and mechanical bar screens shown in PHOTOS 1-5 were operating. Mr. Orta explained that the grinders and bar screens are essential to wastewater treatment at MCSP because prisoners flush various types of trash down prison toilets. Mr. Orta stated that screens are replaced every 3-4 months, and the whole assembly is occasionally replaced. Mr. Orta explained that an influent sample is taken at the top of the headworks, and the emergency channel (PHOTO 6) can be opened manually if additional flow capacity is needed or if one of the grinders or bar screens becomes inoperable.

Pump Station

The inspection continued at the pump station located adjacent to the wastewater treatment plant (PHOTOS 21-22). Mr. Stark explained that this pump station collects water from the MCIC and transfers it to the wastewater treatment plant. Chopper pumps cut up trash prior to flowing this water to the headworks. Inspector Scavello discussed a sanitary sewer overflow (SSO) which was reported on August 11, 2020 with Mr. Fregeau and Mr. Stark. A portion of this spill report form used by MCSP and the spill notification report sent to the Regional Board is shown as APPENDIX 7 below.

Mr. Fregeau and Mr. Stark explained that it was determined that faulty code in the operating system for the knife gate shown in PHOTO 23 caused the gate to remain in the 'closed' position while the pump station was pumping, triggering the SSO. At the time of the SSO, Mr. Fregeau explained that Facility practice was to leave the emergency valve in the berm shown in PHOTO 24 in the 'open' position during summer months. The SSO flowed through the open valve to the areas shown in PHOTO 25 and PHOTO 26, and a vac truck was used to recover an estimated 11,100 gallons that were not absorbed into the creek bed shown in PHOTO 26. Mr. Fregeau's spill report notes the total spill estimate as 42,227 gallons based on previous day "normal" flow, and that based on SCADA data the "PLC for MCIC faulted at 7:00PM on Monday, August 10th, 2020. It was not discovered till Tuesday, August 11th, 2020; approximately 11:15AM". After the inspection, Inspector Scavello verified that this information matched reporting in Cal OES. The spill was reported in Cal OES as control #20-4297.

As a result of this spill, Mr. Fregeau explained that the emergency valve in PHOTO 24 is now kept in the 'closed' position, and the knife gate is kept in the 'open' position as shown in PHOTO 23. Inspector Scavello verified that the valve was closed and knife gate was open at the time of inspection. Mr. Fregeau also explained that since this spill the mobile pump seen in PHOTO 22 is staged at the pump station in case of emergency.

Stormwater Settling Pond

Mr. Stark explained that the stormwater settling pond shown circled in yellow on the map at right and pictured in PHOTO 27 collects stormwater from the MCIC yard and building areas. Mr. Hudgens explained that the settling pond was constructed in 2016 simultaneous with MCIC construction. The settling pond contains an overflow pipe, which the 2020 MCSP Sewer System Management Plan (SSMP) notes drains to Mule Creek once the pond has reached approximately half capacity⁵. At the time of inspection, the water level was far below entering the overflow pipe. The pond appeared to be structurally sound at the time of inspection.



Wastewater Treatment Plant

After wastewater passes through the in-channel grinder and bar screens described earlier, an influent pipe delivers wastewater to the oxidation ditch (PHOTO 28). At the time of inspection, the aerators pictured were running alternately. Mr. Stark explained that the high-powered additional pumps shown in PHOTO 28 are generally not used, as they increase flow velocity to too high a rate. He explained that all aerators operate year-round. Mr. Stark explained that the wastewater flows around the oxidation ditch curve shown in PHOTO 29 to a splitter box, and that wastewater can be directed to clarifier #1, #2, or #3. At the time of inspection all flow was being directed to clarifier #3. Mr. Stark informed the EPA inspectors that MCSP staff was working on guide arm maintenance on clarifiers #1 and #2. Clarifiers #1 and #2 were not operating at the time of inspection. PHOTO 30 shows the condition of wastewater in clarifier #3, which appeared to be operating in good repair. PHOTO 31 shows clarifier #2. PHOTO 32 and PHOTO 33 show the full extent of the oxidation, aeration, and clarifying operation at the wastewater treatment plant.

⁵ 2020 Mule Creek Sewer System Management Plan, page 13.

Mr. Stark explained that in warmer months, sludge is sent to the drying beds shown in PHOTO 34, and in the winter months that sludge is pressed using the belt press shown in PHOTO 35 and placed into a dumpster for removal. Mr. Stark commented that average daily flow at the wastewater plant is 480,000-520,000 gallons per day⁶, and that the plant usually wastes 10,000-15,000 gallons of sludge per day. Mr. Stark explained that residual wastewater from the drying beds flows back to the oxidation ditch.

After the wastewater is clarified, it enters the chlorine contact chamber shown in PHOTO 36. Mr. Stark commented that average flow time for wastewater in the chlorine contact chamber is 1.5 hours. As stated in the WDR, treated wastewater is sent to MCSP Reservoir, Preston Reservoir, Castle Oaks Reclamation Plant for reuse/land application, or disposed of via land application areas on-site within the MCSP.

Irrigation LAAs

The WDR states that the total area of LAAs (aka sprayfields) was 260 acres prior to construction of the MCIC complex, and that 57 acres of LAAs were lost due to construction of the MCIC. There are currently seven LAAs in operation at the Facility. As noted in the WDR, CDCR proposed the addition of LAAs #8-11, however as of the date of inspection these LAAs have not been installed. An August 13, 2018 NOV issued by the Regional Board notes various deficient reporting and other issues related to possible nutrient loading and overapplication of wastewater to LAAs, and Attachment B of Regional Board proposed July 2020 order R5-2020-XXXX includes plans for an Enhanced Compliance Action with two goals: to eliminate non-storm water flow resulting from landscape irrigation from entering the storm water collection system at MCSP, and reduction of the amount of potable water utilized in landscape irrigation.

EPA Inspectors Scavello and Tinger and other inspection attendees viewed LAA #7, the nearest adjacent LAA location to the Mule Creek discharge point (PHOTO 37). At the time of inspection, the field was not being irrigated. Mr. Stark explained that the LAA was last irrigated one week prior to the inspection, and that when a field is being irrigated sprinklers run until the field is saturated to the point that a visual determination is made that no ponded (i.e. standing) water will be present 24 hours after irrigation is stopped. MCSP staff explained that irrigation frequency is intermittent based on the volume of treated wastewater present in the storage pond and weather conditions, and that fields are irrigated in rotations according to the WDR guidelines. Mr. Hudgens explained that the sprinklers at MCSP LAAs are designed with a 40-foot setback from a road and a 60-foot setback from waterways. This distance is measured from the edge of where the LAA sprinkler is spraying water to the road or waterway.

⁶ WDR R5-2015-0129 lists an average dry flow limit of 0.74 million gallons per day (MGD), peak wet weather flow of 2.2MGD, and total annual flow limit of 274MG.

Outfall Connection to Mule Creek

After a closing conference with MCSP staff in which initial areas of concern were discussed, Inspectors Scavello and Tinger and Regional Board staff inspected Mule Creek immediately downstream from the surface drainage area where stormwater exits MCSP and connects to Mule Creek. This area is shown in PHOTO 38 and PHOTO 39, and is located underneath the bridge overpass of CA-104 approximately 20 feet southwest from sample point MCSP4/RW. Water was not flowing at the time of inspection, and pooled water under the bridge area was muddy with no foam.

SECTION IV – AREAS OF CONCERN

The presentation of areas of concern does not constitute a formal compliance determination or violation.

1. **Potential commingling of waters between the stormwater and wastewater systems-** The October 2019 report by SHN titled *Revised Stormwater Collection System Investigation Report of Findings* includes a list of hundreds of defects in both the MCSP stormwater system and the sanitary sewer system. As these defects have not been addressed, the potential for commingling of stormwater and sanitary sewer waters may exist, as both systems are aging and built very close to each other. Per the WDR, discharge of non-stormwater via the stormwater system constitutes an unpermitted discharge. The response Mr. Fregeau provided to EPA after the inspection notes that “Mule Creek is in the process of preparing a Special Repair Project to address issues identified in the 2018 Storm Water Investigation report of findings. For example damaged sewer piping and storm drain piping.” Additionally, the Regional Board summarized in a Technical Memo⁷ approximately 600 water samples MCSP collected from the stormwater system, and documented elevated levels of multiple pollutants which indicate contamination of the storm sewer system and discharges that exceed water quality standards. Without addressing these issues, the potential commingling and subsequent discharge of sewage through the stormwater system to Mule Creek exists.
2. **Pumps diverting stormwater back to the wastewater treatment plant** -As a result of the California Regional Water Board 13 267 Order, MCSP currently has two pumps in use at the main junction vault and two pumps in use at the secondary junction vault which pump water back to the wastewater treatment plant if a storm event is anticipated to overwhelm the junction vault. EPA views this as a temporary fix to address capacity issues which were first reported to the Regional Board in December 2017. On March 15, 2018, consulting firm KSN, Inc. provided a report to MCSP which noted that the practice of introducing intermittent, elevated flows to the wastewater treatment plant could result in a reduction in Biological Oxygen Demand (BOD),

⁷ “Review of Revised Storm Water System Investigation Findings Report, California Department of Corrections and Rehabilitations, Mule Creek State Prison, Amador County” from Kenny Croyle, Water Resource Control Engineer, December 7, 2020.

decreased residence time in the oxidation ditch, variable sludge return rates, and changes in suspended solids concentration and settling characteristics, amongst other possible changes, especially in winter months. The continued practice of pumping stormwater to the wastewater treatment plant could continue to impact wastewater treatment plant performance and result in noncompliance with the WDR. These potential impacts are acknowledged in MCSP's post-inspection response to EPA, and MCSP's response is presented as APPENDIX 5.

3. **Slide gates do not prevent flow to the main or secondary outfall-** Both sets of slide gates at the main junction vault and secondary junction vault do not fully seal when in the "closed" position, allowing water to pass through the gates to the outfall. Potentially commingled and contaminated waters could flow to the outfall unchecked. Unpermitted discharge reaching Mule Creek could result in a violation of the WDR or MS4 Permit.
4. **Non-stormwater discharge of irrigation water-** A revised Regional Board 13 383 Order dated December 22, 2020 notes that "Recent weekly monitoring reports document large volumes of irrigation water being discharged through the Facility's MS4 into Mule Creek", and that discharge of large volumes of non-stormwater through the MS4 is prohibited. During the inspection, EPA Inspectors discussed irrigation of the prison yards with MCSP staff. Staff stated that prison yard irrigation water flows to the two outfalls at the Facility. Continued excessive discharge of irrigation water to the MS4 could result in a violation of the MS4 Permit.
5. **Incomplete spill reporting data-** The Spill Notification Report shown in Appendix 7 notes a spill start time of 7:00PM on Monday, August 10th, 2020 and discovery/stoppage at 11:15AM on Tuesday, August 11th. The "estimated volume spilled" section of the report notes "Based on previous day flows I estimate we were under the "normal" flow amount about 42,227 gallons." This description is non-specific and does not allow a reader reviewing the report to know what flow is being referenced, or what a "normal flow" is. By not specifying the source of flow or what constitutes a normal flow, it is not possible for the reader to verify the accuracy of the spill amount. Also, the "corrective actions" section of the report lists installation of a float activated standalone alarm system to prevent a similar spill from occurring. At the time of inspection EPA Inspectors did not observe this corrective action in place and operable.
6. **Impacts of cold weather on uncovered wastewater treatment plant-** As acknowledged by MCSP staff during the inspection, the lack of cover over the wastewater treatment plant has the potential to reduce biological effectiveness during winter months.
7. **Spill kit location in the delivery yard-** When asked about the location of spill kits and cleanup procedures should a spill occur in the delivery yard, MCSP staff was not able to tell EPA Inspectors the location. Though MCSP staff was able to walk EPA Inspectors through the spill response process, staff working in the yard should be familiar with emergency spill kit materials and trained in their use should the need arise.
8. **MS4 Program Training for Employees-** It is essential that all staff receive training adequate to help the Facility comply with all programmatic requirements. This includes sampling protocols, reporting, eliminating non-stormwater discharges, and best management practices within the industrial areas to prevent spills. While this training

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appears to be underway, planning for future staff needs and refresher training is critical to maintaining a successful program.

SECTION V. SINGLE EVENT VIOLATIONS

Were any Single Event Violations (SEV) Observed?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If Yes Describe SEV:	SEV CODE	

APPENDICES

Appendix 1 – Main Complex Drainage Areas Map – From SHN Report , *Revised Stormwater Collection System Investigation Report of Findings* p.131.

Appendix 2 – Site plan showing monitoring points – From SHN Report, *Weekly Status Report (week ending November 20, 2020)*, p.2

Appendix 3 – Photo log location key

Appendix 4 – Photo log

Appendix 5 – MCSP Response to EPA requesting documentation on how 3/10" in 24hrs or 1/10" hour were determined as rates to trigger opening of slide gates during a rain event

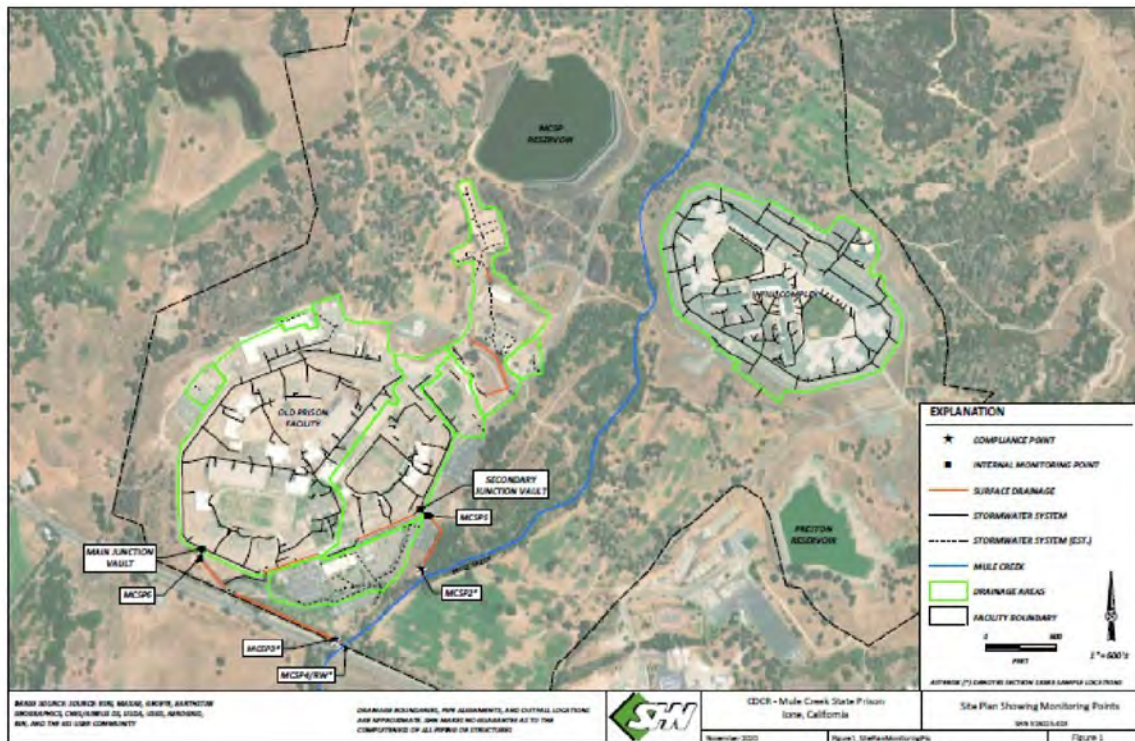
Appendix 6 – Excerpt of SHN Weekly Status Report – Week ending November 20, 2020

Appendix 7 - Excerpt of Spill Report Form and Spill Notification Report from August 11, 2020 spill at pump station

APPENDIX 1 – Main Complex Drainage Areas Map – From SHN Report, *Revised Stormwater Collection System Investigation Report of Findings* p.131.



APPENDIX 2 – Site plan showing monitoring points – From SHN Report, *Weekly Status Report (week ending November 20, 2020)*, p.2



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APPENDIX 3 – Photo log locations (Aerial photos from Google Earth)



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Appendix 4 -Photograph Log

The photographs were taken during the inspection by Inspector Tinger on November 19, 2020. Original copies of the photos are maintained by EPA Region 9.



PHOTO 1 In-Channel Grinder and mechanical bar screens



PHOTO 2 – In-channel grinders and mechanical bar screens – Full extent

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PHOTO 3 – Closeup of In-channel Grinder

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PHOTO 4 – In-channel grinder and bar screen

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PHOTO 5 – Closeup of mechanical bar screen

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PHOTO 6 – Emergency spillway

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PHOTO 7 – Secondary Junction Vault



Photo 8 – Closeup of secondary junction vault with pumps, screens, and two closed slide gates.
Pumps were not operating at time of observation.

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PHOTO 9 – Flow meters installed at secondary junction vault



Photo 10- Secondary outfall and sample point MCSP-5

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PHOTO 11- Closeup of secondary outfall



PHOTO 12 – Automatic sampler sampling the secondary outfall at point MCSP-5.

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PHOTO 13 – Autosampler at MCSP-2



PHOTO 14 – Drainage channel with water

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PHOTO 15- Drainage channel with water at point of t-connection to other drainage channel



PHOTO 16 – MCSP-3 Point of compliance

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PHOTO 17 – Compliance point MCSP-3. Bridge connecting to Mule Creek in back center of photo.



PHOTO 18- Main Junction Vault

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PHOTO 19 – Main outfall with autosampler point MCSP-6



PHOTO 20 – Drainage channel reach directly beyond main outfall leading to MCSP-3

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PHOTO 21 – Pump station manifold

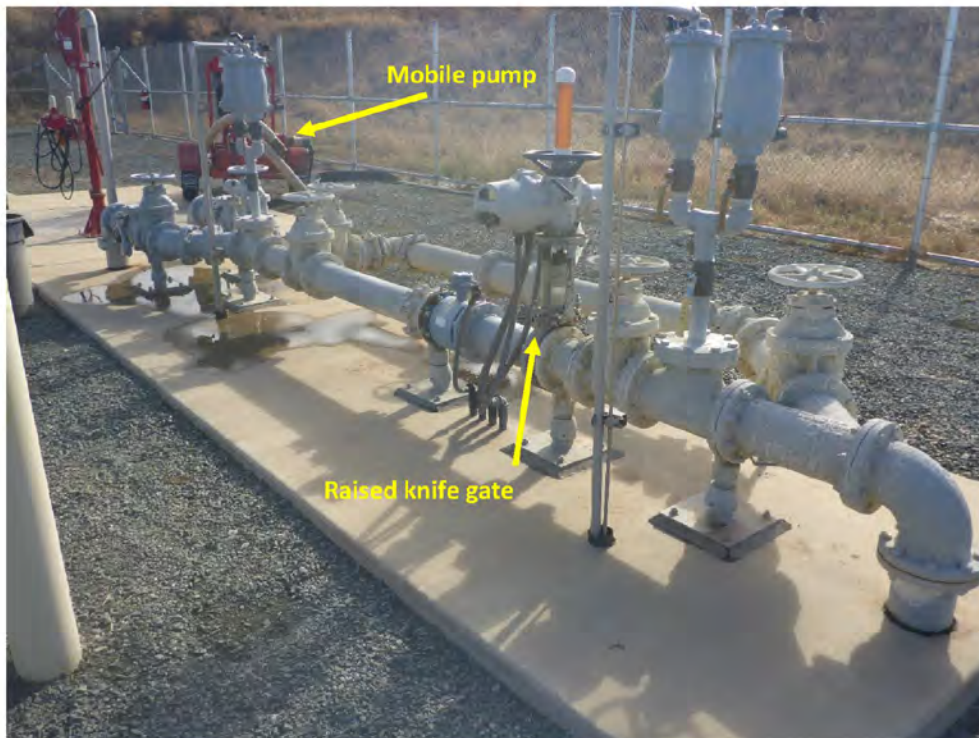


PHOTO 22- Pump station manifold

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PHOTO 23- Knife gate manually place in the "open" position



PHOTO 24 – Emergency valve in berm where August 11, 2020 SSO flowed through

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PHOTO 25 – Area August 11, 2020 SSO flowed to



PHOTO 26 – Creek bed where SSO flowed to and fluid was recovered

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PHOTO 27 – Stormwater pond



PHOTO 28 – Oxidation ditch

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PHOTO 29 – Aeration channel



PHOTO 30 – Clarifier #3

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PHOTO 31 – Clarifier #2 (out of service)



PHOTO 32 – Oxidation and aeration process

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PHOTO 33 – Clarifiers



PHOTO 34 – Covered sludge drying bed

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PHOTO 35 – Belt press



PHOTO 36 – Chlorine contact chamber

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PHOTO 37 – LAA #7



PHOTO 38 – Outfall point under bridge where MCSP drainage joins Mule Creek

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PHOTO 39 - Outfall point under bridge where MCSP drainage joins Mule Creek

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APPENDIX 5 – MCSP Response sent by Chief Engineer Estevan Fregeau to EPA on December 8, 2020 in response to EPA request for documentation on how 3/10" in 24hrs or 1/10" hour was determined as rates to trigger opening of slide gates during a rain event

"The 3/10" in 24hrs or 1/10" calculation was made based on the effect the additional water would have on the Waste Water Plant.

Based on the acreage of Mule Creek Prison "within the secured perimeter" roughly 60 acres. For every inch of rain we receive it would equal around 1.629 Million Gallons.

Currently Mule Creek Prison is designed for .74MGD Average dry weather flow "ADWF" and 2.2MGD Peak Wet Weather Flow "PWWF". Although the WWTP could handle 1" of rain for a day hydraulically it cannot handle it biologically. Storm water can lower the temperature in the aeration basin "Oxidation Ditch" to the range of 60°F to 65°F normally the temperature ranges from 65°F during winter and 80°F during summer. This lower temperature affects the biological activity by hindering the growth and activity. To keep the WWTP treatment process stable at the lower temperatures it is common practice to increase the Mean Cell Residence Time "MCRT" which we do currently. Typical ranges for Mule Creek WWTP is 17 day during summer and 20 day during winter. To keep a higher MCRT during a storm event is nearly impossible due to the slug of high flows and suspended solids washing out thru the effluent of the clarifier. The high flow of storm water has very little to no BOD and a high solids containing mostly inorganics "dirt" this causes the plant to have a higher than normal effluent suspended solids. The high solids/ high flow in the effluent adds to the difficulty of reaching an acceptable level of disinfection. The lack of BOD lowers the F/M ratio to a range where the remaining biological activity is pushed to starvation and could eventually die off. The high solids/ high flow in the effluent adds to the difficulty of reaching an acceptable level of disinfection. To take in storm water during a rain event would cause the WWTP to not be able to treat the wastewater effectively from Mule Creek/Infill Complex and violate on effluent limitations per the WDR."

California Department of Corrections / Mule Creek State Prison
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APPENDIX 6 – Excerpt of SHN Weekly Status Report – Week ending November 20, 2020



Phone: (530) 221-5424 Email: info@shn-engr.com Web: shn-engr.com
350 Hartnell Avenue, Suite B, Redding, CA 96002-1875

Reference: 516025.100

December 4, 2020

Kenny Croyle
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive #200
Rancho Cordova, CA 95670

Subject: Weekly Status Report (week ending November 20, 2020), Mule Creek State Prison, Amador County, California

Dear Kenny Croyle:

In accordance with Water Code Section 13267 Order (Order) issued for the Mule Creek State Prison (MCSP), this report summarizes site monitoring activities conducted during the week ending November 20, 2020.

1. Tabulated results, along with lab reports, for each daily sampling event during that reporting week.

Attachment 1 presents summary tables of data received from the laboratory as of December 2, 2020. Laboratory analytical reports for the November reporting period will be included in the monthly status report, which will be submitted by January 1, 2021.

2. The daily totaled volume measurements of non-stormwater collected out of the entire stormwater system, broken down by discharge point. The flow was measured with a calibrated flow meter.

The volume of non-stormwater is divided into two loads for each monitoring location: 1) non-stormwater flow pumped to the wastewater treatment plant; and 2) non-stormwater flow passing through the internal monitoring locations at MCSP5 and MCSP6.

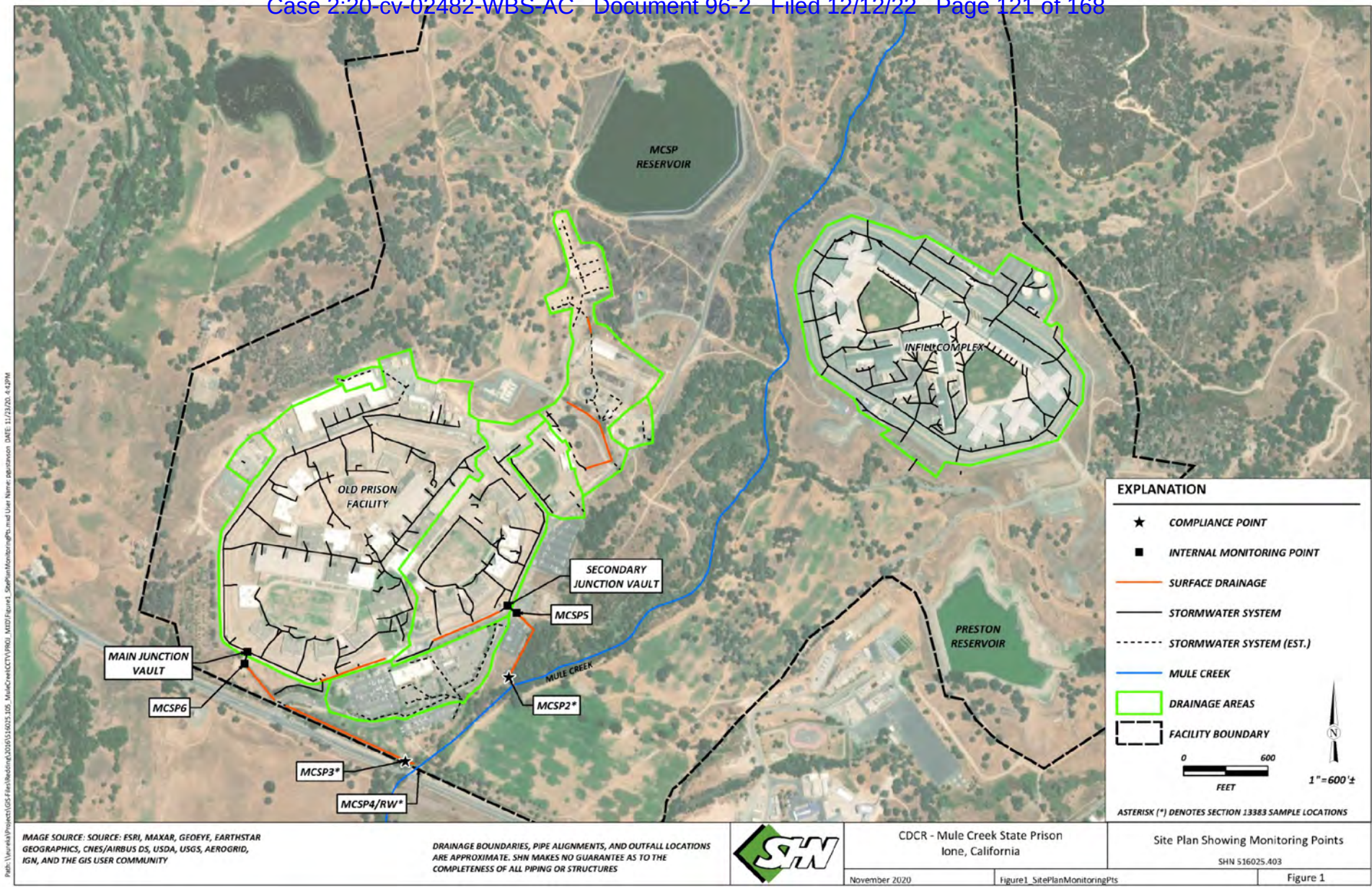
Non-stormwater is redirected to the wastewater treatment plant by way of four sump pumps: two at the Main Junction Vault (Tower 3) and two at the Secondary Junction Vault (Tower 9). Daily flow readings are recorded and used to calculate volume of non-stormwater redirected to the wastewater treatment plant. Internal monitoring points and compliance point locations are shown in Figure 1. Historical flow data is presented in Attachment 1. See Attachment 2 for weekly email correspondence.

Table 1 presents the flows entering the wastewater treatment plant. The total non-stormwater pumped to the wastewater treatment plant from the storm drain system for this week is **40,969 gallons** (5,853 gallons daily average).



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MCSP0033006



Kenny Croyle

Weekly Status Report (week ending November 20, 2020), Mule Creek State Prison, Amador County, California

December 4, 2020

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**Table 1. Total Water Flow Entering the Wastewater Plant; Week Ending November 20, 2020
Mule Creek State Prison, Amador County, California**

Internal Monitoring Points				Total Gallons
Main Junction Vault ¹		Secondary Junction Vault ²		
Pump #5	Pump #6	Pump #2	Pump #3	
7,399	16,243	14,806	2,521	40,969
1. Formerly referred to as Main Outfall				
2. Formerly referred to as Secondary Outfall				

During the week ending November 20, 2020, the total flow passing through internal monitoring points MCSP5 and MCSP6 was **1,119,250 gallons** (159,893 gallons daily average) (Table 2).

**Table 2. Total Flow Passing Through MCSP5 and MCSP6; Week Ending November 20, 2020
Mule Creek State Prison, Amador County, California**

Main Internal Monitoring Point		Secondary Internal Monitoring Point		Total Gallons
MCSP6		MCSP5		
Flowmeter #1	Flowmeter #2	Flowmeter #3	Flowmeter #4	
215,860	549,933	120,205	233,252	1,119,250

Inspections of internal monitoring points MCSP5 and MCSP6 and associated downstream compliance points MCSP2 and MCSP3 were performed daily. Compliance point MCSP2 is in a constructed, vegetated swale located approximately 630 feet downgradient of facility internal monitoring point MCSP5. Compliance point MCSP3 is in a constructed, vegetated swale located approximately 1,500 feet downgradient of facility internal monitoring point MCSP6. Visual flow observations are presented in Table 3. See Attachment 2 for daily photographs of compliance points MCSP2 and MCSP3.

**Table 3. Visual Flow Observations; Week Ending November 20, 2020
Mule Creek State Prison, Amador County, California**

Compliance Points		Internal Monitoring Points	
MCSP2	MCSP3	MCSP5	MCSP6
Flow?	Flow?	Flow?	Flow?
Yes	Yes	Yes	Yes

3. The amount of rainfall that fell over the prison.

0.74 inches of rainfall occurred during the week ending November 20, 2020.

4. A description of any changes, improvements, or upgrades that occur.

Irrigation of MCSP ended as of November 11, 2020, and the valves remain closed. For the week ending November 20, 2020, the total flow was **50,550 gallons** (7,221 gallons daily average).



Kenny Croyle

Weekly Status Report (week ending November 20, 2020), Mule Creek State Prison, Amador County, California

December 4, 2020

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5. Notes on any changes at the wastewater treatment plant in terms of effluent quality and treatment effectiveness.

The performance at the wastewater treatment plant is normal. Wasting is also normal, and the activity of the microorganisms is normal. Flows have returned to past levels, and the plant remains stable. The daily monitoring of parameters and sludge health indicate the plant is operating normally (Attachment 2).

6. Any other additional finding or observations.


The gates from the storm system to Mule creek are being monitored and are opened or closed depending on the rain events to prevent flooding of the Prison.

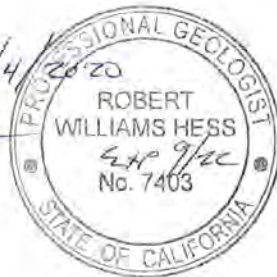
On November 20, 2020, notification of stormwater release to Mule Creek was submitted to the Cal-OES (Report of Discharge #20-647). Main outfall and the secondary outfall gates were opened at 3:00 p.m. on Tuesday, November 17, 2020, and closed at 7:20 a.m. on Thursday, November 20, 2020. Approximately 1,007,681 gallons of stormwater was discharged.

If you have any questions, please call me at (530) 221-5424 or Mike Foget at (707) 441-8855.

Sincerely,

SHN


Robert Hess, PG #7403
Project Geologist



RWH/DMW:dmw

Attachments: 1. Current and Historical Data
2. Correspondence



APPENDIX 7 - Excerpt of Spill Report from August 11, 2020 spill at pump station

MULE CREEK STATE PRISON
SPILL REPORT FORM

Immediately upon notification of a sewage/tailwater runoff spill, a spill report form shall be started. This is to properly document the date, time, and reporting timeframes to the required State/County agencies. A completed spill report form shall be submitted to Plant Operations Department, no later than 24 hours after the spill has occurred.

DATE: 8/11/20 TIME: 11:20 NAME/TITLE: Estevan Fregan Chief EngineerLOCATION (Be Specific): MCIC lift stationDESCRIPTION OF SPILL (Type, amount, how contained, etc): The PLC controlling

The lift station faulted, leaving the knife gate closed while the
pumps try to pump down the wetwells. An estimated 4,000 gallons
spilled based on SCAD trends. The spill reached the Dry
Creek bed, but did not leave the grounds.

Use a separate piece of paper if necessary

CLEAN-UP PROCEDURES (Describe how spill was cleaned-up): using a

2" Trash pump at 185 GPM for about 60 min 11,100 gallons
were pumped back to the lift station. Also using
a 500 gallon Vac Truck 2,500 gallon receptacle
out of the catch basin and Dry Creek bed. For a
total of 13,600.

Use a separate piece of paper if necessary

Spill Report Form

MCSP0033010

Spill Notification Report

Attention: Kenny Croyle

Discharger: Mule Creek State Prison
Name of Facility: Mule Creek WWTP
WDRs: Order Number: RS-2015-0129
CIWQS Place ID: 241842
County: Amador

I am hereby submitting to the Central Valley Water Board the following information:

Spill Description:

Location of spill (address):
1004 Hwy 104 Ione, Ca. 95640

Map of area affected by spill (please attach):

Date and time spill was discovered:

Based on SCADA the PLC for MCIC faulted at 7:00 PM on Monday August 10th 2020. It was not discovered till Tuesday, August 11th, 2020; approximately 11:15 AM

Time discharge was ceased:

11:30 AM

Cause of spill:

The PLC "Allen-Bradley Micro Logix 1400" faulted. The PLC controls all pump operations, alarms and the knife gate. With the PLC faulted we were not able to receive any alarms to notify us of a problem. There is a redundant float system that was controlling the pumps at the time but unable to pump the wetwell down due to the knife gate closed.

Estimated volume spilled:

Based on previous day flows I estimated we were under the "normal" flow amount about 42,227 gallons.

Was the spill contained on site?

Yes it did not leave the property of Mule Creek State Prison.

Did spill reach any surface water drainages?

Yes the spill reached Mule Creek located directly below MCIC lift station.

Description of cleanup procedures (please attach post cleanup photographs):

Using a 500 gallon Vacuum excavator trailer we were able to recapture 2500 gallons from Mule Creek. Directly uphill of Mule Creek towards MCIC lift station there is a catch basin and a slight berm that detained some of the spill, which we used a Honda WT20X Trash Pump 2" rated at 185GPM for about 60mins to recover 11,100 gallons back into the MCIC lift station. The total amount recovered is 13,600 gallons.

Corrective Actions Taken to Prevent Future Spills:

Fully describe corrective actions taken to prevent re-occurrence of spills. These actions may include operational and mechanical improvements to the facility. If the improvements have not already been implemented then a schedule for implementing the corrective actions shall be included with this report. If additional room is necessary, please attach the corrective actions description and implementation schedule to this Spill Notification Report.

We will install a float activated standalone alarm system that will include a visual "red light beacon" and an audible alarm to notify the guard tower that is located approximately 360 feet from MCIC lift station. This will be implemented as soon as possible.

Certification Statement:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

X

Anthony Stark

Phone: (209)247-4911 ext. 7380

Printed Name: Anthony Stark

Date: 8-13-20

Electronic Report Submittal:

To submit the electronic reports please do the following:

1. First make a PDF copy of your report and include this form as the first page of the report.
2. Attach the PDF file to the email.
3. Send the email and PDF attachment to centralvalleysacramento@waterboards.ca.gov
(Please note that in order to ensure your reports are cataloged correctly and routed to the appropriate Regional Board staff, only one report/attachment shall be included with each email.)

EXHIBIT 5

EDMUND G. BROWN JR.
GOVERNORMATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

14 February 2018

Joe A. Lizarraga, Warden
California Department of Corrections
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640

CERTIFIED MAIL
91 7199 9991 7036 7027 5890

WATER CODE SECTION 13267 ORDER (ORDER) FOR TECHNICAL AND MONITORING REPORTS AND NOTICE OF VIOLATION FOR ILLEGAL DISCHARGE TO SURFACE WATER AND NON-COMPLIANCE WITH THE CONSTRUCTION STORM WATER PERMIT, CALIFORNIA DEPARTMENT OF CORRECTIONS–MULE CREEK STATE PRISON, AMADOR COUNTY

Mule Creek State Prison opened in June 1987, and since that time has been owned and operated by the California Department of Corrections (referred to as “Department” or “Discharger”). Through 2015, the Prison consisted of Facilities A, B, C, and their accompanying yards. These facilities are identified hereafter as the “Old Prison Facility”. The Old Prison Facility accommodated approximately 2,800 inmates. In 2016, the prison expanded by constructing the 1,584-inmate Mule Creek Infill Complex (MCIC) on site.

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) regulates the treatment and disposal of domestic and prison industry wastewater from Mule Creek State Prison under Waste Discharge Requirements (WDRs) Order R5-2015-0129 and requires the Department to monitor underlying groundwater for contamination related to these treatment and disposal activities. The issues discussed in this 13267 Order for Technical and Monitoring Reports (13267 Order) are not described nor permitted by the current WDRs.

The Central Valley Water Board also regulates storm water discharges associated with both industrial and construction activities through two general permits adopted by the State Water Resources Control Board (State Water Board). The Discharger stated that it had an Industrial Storm Water Pollution Prevention Plan (SWPPP) for Mule Creek State Prison as required by the General Permit for Storm Water Discharges Associated with Industrial Activities, Order 2014-0057-DWQ (Industrial General Permit). However, Board staff found no evidence of this SWPPP in the Storm Water Multiple Application and Report Tracking System (SMARTS), nor any indication that the Discharger submitted a Notice of Intent to comply with the Industrial General Permit. Furthermore, with respect storm water discharges from construction activities, the Discharger also stated that it failed to obtain coverage under the General Permit for Storm Water Dischargers Associated with Construction and Land Disturbance Activities, Order 2009-0009-DWQ, as amended (Construction General Permit) for their Storm Drain System project, which is further discussed in this 13267 Order.

28 December 2017 Complaint:

On 28 December 2017, Board staff received a complaint via a phone call regarding the apparent illegal discharge of water of unknown origin directly into the newly constructed storm water pipeline which discharges directly into Mule Creek. The complainant stated that the discharge flows varied greatly, but had been occurring during every one of their numerous observations between August 2017 and January 2018. The complainant described the water being discharged as varying between clear and jet black, sometimes with solids, and sometimes steaming hot. These discharges occurred on a daily basis during both the wet season and dry season, regardless of precipitation or irrigation. Therefore, the source is presumed to be something other than stormwater or irrigation runoff.

4 January 2018 Inspection

Compliance and Enforcement staff from the WDRs and Storm Water Units inspected Mule Creek State Prison on 4 January 2018 in response to the complaint. See Attachments A and B for the related inspection reports and photo logs.

During the inspection, Board staff determined that the likely source of the water described in the complaint as discharging to Mule Creek was from a stormwater collection and conveyance system that surrounds the Old Prison Facility. Board staff also observed water discharging out of a lateral drain pipe into the storm water collection and conveyance system that surrounds the Old Prison Facility. This perimeter collection system eventually discharges directly to Mule Creek, which is a water of the State and the United States. To understand the threat of this discharge, Board staff collected a sample of the water from the lateral drain pipe (Sample named "Tower 4"). In addition, Board staff observed a small amount of water discharging from the common collection sump, through the culvert and unlined ditch, and into Mule Creek. Board staff also collected a sample from the common collection sump (Sample named "Junction"). The Laboratory results of these samples are included here as Attachment C, and summarized below.

The Discharger also informed Board staff that, during the construction project related to the stormwater collection and conveyance system, soil was excavated and stockpiled in a borrow area near guard tower 4. This soil had been in direct contact with the water discharged from the lateral drain pipes prior to being excavated.

Laboratory Results and Analysis of Discharge

The water quality samples collected by Board staff demonstrate that the water being discharged from the Old Prison Facility to the perimeter storm water collection system, and then into Mule Creek, is, at least partially, wastewater comingled with contaminated storm water and/or gray water. Table 1 summarizes the relevant laboratory results, which have already been sent to the Discharger.

Table 1: Laboratory Results from 4 January 2018 Samples

	Guard Tower 4 Sample	Common Sump Sample	Comparison Regulatory Values	Comparison Values and Sources
Oil and Grease (mg/L)	2.6	1.2	15	Annual Numerical Action Limit, Order 2014-0057-DWQ
MBAS (mg/L)	0.13	0.18	0.5	Drinking Water Standard: Secondary MCL ¹
Aluminum (mg/L)	2.9	3.7	1	Drinking Water Standard: Primary MCL ¹
Iron (mg/L)	1.9	3	0.3	Drinking Water Standard: Secondary MCL ¹
Total Phosphorus as P (mg/L)	0.35	0.87	0.1	USEPA Health Advisory
Orthophosphate as PO ₄ (mg/L)	0.89	2.3	N/A	Common Constituent Found in Sewage and Other Biological Decomposition
Total Coliforms (MPN/100ml)	>1600	>1600	>2.2	Section 64426.1, Title 22, CCR
E. Coli (MPN/100ml)	>1600	>1600	>2.2	Section 64426.1, Title 22, CCR
Fecal Coliforms (MPN/100ml)	>1600	>1600	>2.2	Section 64426.1, Title 22, CCR

¹ Title 22 California Code of Regulations (CCR), Division 4, Chapter 15

Other Areas of Concern

Storm Water Discharges:

The installation and grading associated with the Storm Drain System project generated excess soil, has been stockpiled along with the removed culverts in a borrow area near guard tower 4 (see Photo 6 of the Storm Water Inspection Report, Attachment A). Based on the sample results outlined above, any excavated soil from the storm water drainage area likely came into contact with wastewater and will need to be characterized for safe handling and proper disposal.

The storm water collection and conveyance system encircles the entire Old Prison Facility and discharges into Mule Creek. After review of Google Earth satellite views of the site, Board staff

has determined that there may be other points where the storm water collection and conveyance system discharges to Mule Creek. Therefore the entire storm water collection and conveyance system around the Old Prison Facility must be investigated and evaluated to identify all sources of the wastewater, stormwater, and graywater points of discharge into the current storm water pipeline.

Groundwater Impacts:

In 2006 Cease and Desist Order R5-2006-0130 was issued to the Discharger for, among other things, discharges of waste to surface water. Around the same time the Amador County Environmental Health Department conducted a study investigating the potential impacts of the Prison operations on Mule Creek and local groundwater. The investigation included sampling Mule Creek upstream and downstream of the Prison, and sampling seven domestic wells within a 1 mile radius. The results of this effort were reported two reports: *Mule Creek Water Quality Testing*¹ and *Mule Creek Area Ground and Surface Water Source Evaluation*². The reports found significant evidence of the Prison impacting surface water in Mule Creek, which supported the Cease and Desist Order. Because there were similar detections of wastewater constituents in the 4 January 2018 samples and what was reported in 2006, and Mule Creek appears to be a losing stream that is recharging the aquifer, groundwater sampling will be needed to understand the impacts from this pipeline.

Alleged Violations and Notice to Cease Illegal Discharge:

1. Unpermitted discharge of wastewater to Mule Creek

The discharges of wastewater observed during the 4 January 2018 inspection are not permitted by the Discharger's WDRs, Order R5-2015-0129. Specifically, Discharge Prohibition A.1. states, "[d]ischarges of wastes to surface waters or surface drainage courses is prohibited." Furthermore, Discharge Prohibition A.4. states, "[d]ischarge of waste at a location or in a manner different from that described in the Findings is prohibited." The observed discharge is an unpermitted discharge of pollutants in violation of section 301 of the Clean Water Act (33 U.S.C. § 1311) and California Water Code (Water Code) section 13350.

2. Failure to obtain coverage under the Construction General Permit and Industrial General Permit

Furthermore, both the Water Code and the Clean Water Act (CWA) require the Discharger obtain the appropriate permit coverage for discharges of storm water associated with industrial and/or construction activities.

¹ Mule Creek Water Quality Testing, Carlton Engineering Inc., Amador County Environmental Health, 6 December 2006

² Mule Creek Area Ground and Surface Water Source Evaluation, Carlton Engineering Inc., Amador County Environmental Health, 16 May 2007

The Central Valley Water Board staff issued a Notice of Non-Compliance (NONC) on 12 January 2018 regarding the Discharger's failure to obtain coverage under the Construction General Permit prior to commencing the Storm Drain System project. Coverage under the Construction General Permit is required where project activities, including clearing, grading, or excavation, result in a land disturbance of one or more acres, or where construction activities result in land disturbance of less than one acre, if the construction activity is part of a larger common plan of development. The Storm Drain System project disturbed greater than one acre of land at the facility. The NONC requires that the Discharger apply for coverage under the Construction General Permit no later than 12 February 2018. As of the date of this 13267 Order, the Discharger still has not applied for coverage or implemented adequate Best Management Practices (BMPs).

The Discharger also failed to obtain coverage under the Industrial General Permit, which is required for sites that engage industrial activities resulting in the discharge of industrial storm water to waters of the United States. The Discharger's failure to obtain coverage under the Construction General and Industrial General Permits constitute violations of Water Code and the Clean Water Act.

Based on these alleged violations and the laboratory results, Board staff notified the Discharger via email on 18 January 2018 stating:

"The discharge of this wastewater to Mule Creek must cease immediately. All water discharging from this [sic] drainpipes must be contained and properly disposed of at your POTW. No water form [sic] this pipeline may be discharged to land or to surface water without a permit. Furthermore, because this appears to be sewage, CDCR must prevent human contact with this wastewater.

CDCR may consider off hauling if you have capacity issues at your facilities wastewater plant. CDCR should collect a daily sample of the discharge from the point where the culverts meet and travel under the road, near Tower 3. The analysis should include the same constituents that were analyzed for in our analysis (see attached lab reports). Further investigation of the source and characterization of the waste will be required."

Discharger's Response

To date, the Discharger has ceased the discharge from the storm water collection and conveyance system between guard towers 1 and 6. The collected wastewater is being pumped from the common collection sump via a portable pump to a nearby sewer cleanout, to be treated at the on-site wastewater treatment plant. The Discharger collected one sample on 19 January 2018. The sample was analyzed for E.coli, fecal coliforms, and total coliforms, but not all constituents specified in Board staff's 18 January 2018 email. The sample was analyzed outside of the required hold time by almost 3 days, yet the sample still contained a reported total coliform value of 130 MPN/100ml, and fecal coliform and E.coli values of 30 MPN/100ml each. The Discharger attributed these results, and the results of the samples collected by Board staff,

to “construction activities, wildlife presence, and a ‘flushing’ effect of the recent storms”. Board staff does not agree with this assessment.

Water Code Section 13267 Order for Technical Reports

Section 13267 of the California Water Code states, in part:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging...or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging... waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

Section 13268 of the California Water Code states, in part:

(a) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267...or falsifying and information provided therein, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

As part of the Central Valley Water Board’s effort to protect water quality and investigate the Department’s alleged unpermitted discharges and failures to act, the Central Valley Water Board requires the Department to submit information in the form of a technical report pursuant to Water Code section 13267. The burdens, including cost, of this report that the Central Valley Water Board requires bear a reasonable relationship to the need for the report and the benefits to be obtained by it. The requested information is necessary for the Central Valley Water Board to understand the scope and duration of the alleged violations and potential impacts to Mule Creek.

Pursuant to Water Code Section 13267, California Department of Corrections, Mule Creek State Prison shall submit the following technical reports:

- A. Beginning on **16 February 2018**, weekly status reports (via email) each Friday that include:

1. Tabulated results, along with all lab reports, for each daily sampling event during that reporting week.
 2. The daily totalized volume measurements of wastewater collected out of the entire storm water system, broken down by discharge point. The flow shall be measured with a calibrated flow meter.
 3. The amount of rain that fell over the prison.
 4. A description of any changes, improvements, or upgrades that occur.
 5. Notes on any changes at the wastewater treatment plant in terms of effluent quality and treatment effectiveness.
 6. Any other additional findings or observations.
- B. By **15 March 2018**, provide an *Interim Disposal Plan* for the wastewater collected daily in the storm water pipeline. If the plan is to continue to discharge to the facility's on-site wastewater treatment plant, the plan must include a statement that the facility has adequate treatment capacity to comply with Flow Limitations B.1 of WDR R5-2015-0129. This statement must be supported by calculations and signed and stamped by a California Registered Professional Engineer. The plan should include an implementation schedule.
- C. By **15 March 2018** the Discharger shall submit a *Monitoring Plan* which describes the items listed below. Until that Monitoring Plan is submitted and approved by Board staff, the Discharger will continue to collect any wastewater entering the storm water collection and conveyance system which encircles the entire Old Prison Facility and treat it at the on-site wastewater treatment plant. If it is determined that the onsite treatment plant does not have the capacity for this additional waste stream, the collected wastewater shall be trucked and hauled to a Publically Owned Treatment Works. The Monitoring Plan should be developed in conjunction with the *Interim Disposal Plan*. Contents of the Monitoring Plan shall include:
1. The locations where samples will be collected from.
 2. A map of the sampling locations.
 3. The frequency that samples will be collected.
 4. A sampling plan, including a list of the analytes as well as the methods to be used to collect, store, and transport samples to a laboratory certified by the Environmental Laboratory Accreditation Program. These constituents should be based on the storm water and wastewater flows coming from the Old Prison Facility, including from all current and historical industrial activities such as meat processing, dry cleaning, laundry facilities, equipment wash down, and domestic wastewater.
 5. An implementation schedule.
- D. By **15 March 2018** the Discharger shall submit a plan to sample all domestic and municipal wells within the area bound by Highway 104 to the north, Sutter Creek to the east and south, and Dutschke Road to the west. The sampling shall be conducted without any cost to the landowners/well owner. The plan must include a sampling and analysis plan and a contingency plan if the well is impacted above the maximum contaminant level for each individual identified constituent of concern. Wells must be sampled, at a minimum, quarterly for one year. Samples shall be analyzed for all constituents identified in the *Monitoring Plan* above. The plan should include an implementation schedule.

- E. By **15 March 2018** the Discharger shall submit a *Storm Water Collection System Investigation* work plan, signed and stamped by a California Registered Professional Engineer, that includes:
1. A complete description of the existing storm water collection system as it is currently understood, including as-built drawings stamped by a Professional Engineer for the entire Prison, including the Old Prison Facility and the MCIC.
 2. A complete map of all pipes and drain inlets in the Old Prison facility, mapped from the drains to Mule Creek.
 3. The maintenance log for the Old Facility plumbing system which documents all repairs and changes since the time of construction.
 4. A timeline of any changes made to the system or related plumbing from the time it was built.
 5. A work plan to investigate the source of the wastewater entering the storm water collection system. This investigation should examine all drain pipes and determine their origin and if there are cross connections or pipe breaks for the entire length of the system. The work plan shall explain in detail the methodology for how investigating the pipelines will occur.
 6. Propose a list of water quality constituents contained in the wastewater being discharged to the storm water collection system using a comprehensive laboratory analysis and extended sampling regimen.
 7. A plan to characterize the soil excavated during construction of the Storm Drain System project is contaminated.
 8. A plan to characterize the soil around the Storm Drain System project is contaminated.
 9. All recent and historical storm water data collected from the new MCIC storm water system discharge points.
 10. An implementation schedule, ending with the submittal of Item F below.
- F. By **15 April 2018**, the Discharger shall submit a *Storm Water Collection System Investigation Findings Report*, signed and stamped by a California Registered Professional Engineer, that includes:
1. A description of all sources of discharge for each drain pipe connected to the storm water collection system.
 2. An estimation of when any cross connection, pipe break, or other issue occurred and began causing the release of waste constituents to the stormwater collection and conveyance system.
 3. Results from all samples, flow measurements (see Item A.2), visual observations, photos, videos, and field logs collected during the investigation.
 4. Based on the above information, an estimate of how much water was discharged from the stormwater collection system since the first time waste constituents were introduced into the system.
 5. A revised complete map of all pipes and drain inlets in the Old Prison facility, mapped from the drains to Mule Creek (see Item E.2).

G. By **15 April 2018**, the Discharger shall submit a *Final Disposal Plan* (Plan), signed and stamped by a California Registered Professional Engineer. The Plan must include all work necessary to implement the permanent solution to addressing the comingled flows in the stormwater collection and conveyance system. A schedule to complete the work shall be proposed in the Plan. Treating and disposing of the new waste stream on-site using the existing treatment plant and land application areas would constitute a material change. Therefore if the Discharger elects to discharge to the facility's on-site wastewater treatment plant, then the California Department of Corrections, Mule Creek State Prison must submit an Amended Report of Waste Discharge (RWD) that describes the new waste stream and how it is collected, conveyed, treated, and disposed. The RWD must also include a *Water Balance Report*, signed and stamped by a California Registered Professional Engineer, demonstrating whether or not the facility has adequate treatment, storage, and disposal capacity to comply with Flow Limitations B.1 and Discharge Specification D.7 of the WDRs. If required, the *Water Balance Report* shall include:

1. An updated and calibrated water balance that follows the requirements of the enclosed Requirements for Water Balance Update and Calibration (Attachment D). The water balance should determine if the Mule Creek Wastewater Treatment Plant has the required treatment and storage to accommodate the additional wastewater flows, design seasonal precipitation, and ancillary inflow and infiltration during the winter months. Design seasonal precipitation shall be based on total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns.
2. Increased flows diverted from the storm water collection and conveyance system of the Old Prison Facility should be estimated using daily flow data collected from the flow meter(s) required to be installed by this Order.
3. The water balance should be supported by any Inflow and Infiltration (I&I) studies, collection systems inspections and maintenance records, hydraulic capacity studies, and documentation of any upgrades or repairs to the collection system, the treatment plant or the disposal system. All supporting documents should be submitted with the new water balance for review.
4. A discussion with an evaluation of the ability of the storage reservoir and disposal area to store and dispose of wastewater in compliance with the WDRs Discharge Prohibitions, Discharge Specifications, and Provisions.
5. A comparison of actual rainfall data from a reliable cited source to the 100 year annual return period precipitation total. The 100 year annual return period precipitation total should be either cited from the WDRs or from a reliable source.
6. If the resulting water balance shows that the facility does not have the capacity to meet these requirements, a work plan and timeline to reduce influent flow or increase facility capacity must be submitted along with the water balance (see Attachment D). All improvements must be in place by 1 October 2018. Until these improvements are made, excess flows should be tanked and hauled offsite to an appropriate disposal facility.

Any technical report required herein that involves planning, investigation, evaluation, engineering design, or other work requiring interpretation and proper application of engineering or geologic sciences shall be prepared by or under the direction of persons registered to

practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. As required by these laws, completed technical reports must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work.

Failure to submit the technical report, or submittal of an incomplete report, may subject the District to enforcement action by the Central Valley Water Board, including the imposition of administrative civil liability or referral of the matter to the Attorney General's Office.

Please note we have transitioned to a paperless office. Therefore, all reports shall be converted to a searchable Portable Document Format (PDF) file and submitted by email to centralvalleysacramento@waterboards.ca.gov. To ensure that each submitted report is routed to the appropriate staff, please include the following information in the body of the email: Attn: Kenny Croyle, Compliance Unit, Non-15, the Date and Title of the report, and the facility's CIWQS place ID (CW 241842).

If you have questions, please contact Kenny Croyle at kenny.croyle@waterboards.ca.gov or (916) 464-4676.

Original Signed By

ANDREW ALTEVOGT
Assistant Executive Officer

Enclosed: Attachment A: Stormwater C/E Unit Inspection Report and Photo Log
Attachment B: Non-15 C/E Unit Inspection Report and Photo Log
Attachment C: Laboratory Results for Samples Collected During 4 January 2018
Attachment D: Requirements for Water Balance Update and Calibration

cc: Nickolaus Knight, State Water Board Office of Enforcement, Sacramento
Isabel Baer, California Department of Fish and Wildlife, Rancho Cordova
Rich Muhl, Regional Water Quality Control Board, Rancho Cordova
Scott Armstrong, Regional Water Quality Control Board, Rancho Cordova
Rob L'Heureux, Regional Water Quality Control Board, Rancho Cordova

Terry Bettencourt, Construction and Maintenance Supervisor, Mule Creek State Prison, Ione
Deborah Hysen, Director of Facilities and Construction Management, Mule Creek State Prison, Ione
Doug Finch, Chief Engineer, Mule Creek State Prison, Ione
Ron Hess, Correctional Plant Supervisor, Mule Creek State Prison, Ione
James "Bo" Dahlberg, Sewage Plant Supervisor, Mule Creek State Prison, Ione
Mike Israel, Amador County Dept. of Environmental Health, Jackson

EXHIBIT 6



Central Valley Regional Water Quality Control Board

6 August 2020

Patrick Covello, Warden
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640
CERTIFIED MAIL: 7019 2280 0001 9243 9454

***WATER CODE 13383 ORDER TO MONITOR DISCHARGES TO SURFACE WATER;
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION – MULE
CREEK STATE PRISON, WDID#:5S03M2000307, AMADOR COUNTY***

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds the following:

1. **Responsible Party.** The California Department of Corrections and Rehabilitation (CDCR or Permittee) owns and operates a municipal separate storm sewer system (MS4) at Mule Creek State Prison (Facility), located in Ione within Amador County.
2. **Mule Creek.** The Facility's MS4 discharges to Mule Creek, a water of the United States. Mule Creek is tributary to Dry Creek which runs into the Mokelumne River. The Central Valley Water Board's Water Quality Control Plan for the Sacramento River and San Joaquin River Basins designates the following beneficial uses for Mokelumne River, Camanche Reservoir and Delta and its tributaries, including Mule Creek: AGR, REC-1, REC-2, WARM, COLD, MIGR, SPWN, and WILD.
3. **Small MS4 General Permit.** The Facility is regulated under the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems, Water Quality Order 2013-0001-DWQ, as amended (Small MS4 General Permit) as a Non-Traditional MS4.
4. **Storm Water Control Program.** The Small MS4 General Permit requires CDCR to develop and implement a storm water control program for the Facility to reduce the discharge of pollutants from its MS4 to waters of the United States and ensure compliance with applicable water quality requirements.

KARL E. LONGLEY SCD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

MCSP0029083

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5. **Water Code Section 13383.** Under Water Code section 13383, subdivision (a), the regional board “may establish monitoring, inspection, entry, reporting, and recordkeeping requirements . . . for any person who discharges, or proposes to discharge, to navigable waters” The regional board “may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.” (Water Code, § 13383, subd. (b); see also 33 U.S.C. § 1318(a); 40 C.F.R. § 122.41(h).)

6. **Potential Liability for Noncompliance.** Pursuant to Water Code section 13385, any person who violates a requirement established pursuant to section 13383 may be subject to an administrative civil liability up to \$10,000 for each day in which the violation occurs. The Central Valley Water Board may also seek judicially imposed civil liabilities up to \$25,000 for each day in which the violation occurs.

7. **Need for Monitoring and Reporting Requirements.** Due to potential water quality impacts to Mule Creek while the Facility’s storm water control program is being fully developed and implemented and to ensure compliance with Small MS4 General Permit requirements, the Central Valley Water Board has determined that an interim monitoring and reporting program is necessary to monitor storm water discharges from the Facility to Mule Creek. The requirements in this Order supplement and do not supersede existing monitoring and reporting requirements under the Small MS4 General Permit or other monitoring and reporting orders issued by the Central Valley Water Board or its delegates.

8. **Delegated Authority.** This Order is issued under authority delegated to the Central Valley Water Board’s Executive Officer pursuant to Resolution R5-2018-0057 and Water Code section 13223.

IT IS HEREBY ORDERED that, pursuant to Water Code section 13383, CDCR shall comply with the following monitoring and reporting requirements set forth below:

I. REPORTING REQUIREMENTS

A. **Analytical Methods Report.** The Permittee shall complete and submit an Analytical Methods Report, electronically via the Stormwater Multiple Application Tracking System (SMARTS) database submittal, **by 15 September 2020**. The Analytical Methods Report shall include the following for each constituent to be monitored in accordance with this Order: 1) applicable water quality objective, 2) reporting level (RL), 3) method detection limit (MDL), and 4) analytical method. The analytical methods shall be sufficiently sensitive with RLs consistent with the Sufficient Sensitive Methods Rule (SSM Rule) per 40 C.F.R. sections 122.21(e)(3) and 122.44(i)(1)(iv), and with this Order. If an RL is not less than or equal to the applicable water quality objective for a constituent, the Discharger shall explain how the proposed analytical method complies with the SSM Rule. Central Valley Water Board staff will provide a tool with the transmittal of this Order to assist the Permittee in completing this requirement. The tool will include the constituents and associated applicable water quality objectives to be included in the Analytical Methods Report.

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B. **Quarterly Monitoring Report.** Permittee shall submit a Quarterly Monitoring Report by **1 May, 1 August, 1 November, and 1 February annually.** The Quarterly Monitoring Reports shall cover the following periods: 1) 1 January through 31 March, 2) 1 April through 30 June, 3) 1 July through 30 September, and 4) 1 October through December. The Quarterly Monitoring Report shall:

1. Provide monitoring data and toxicity test results for the quarter and a copy of all sample documents, including chain of custody forms, toxicity test results, and all associated laboratory documents;

C. **Annual Report.** The Small MS4 General Permit requires an Annual Report to be submitted by 15 October. The following additional information shall be included in the Annual Report:

1. Toxicity Testing

- a) The dates of sample collection and initiation of each toxicity test;
- b) A summary of the reported toxicity test results according to the test methods manual chapter on report preparation and test review; and
- c) All results for storm water outfall parameters monitored concurrently with the toxicity test(s).

2. Monitoring data for the fiscal year covering 1 July through 30 June.

D. **Discharge Notification.** The Permittee shall notify the Central Valley Water Board within 24 hours of the Facility discharging storm water to the receiving water.

E. **Certification.** Any person signing a document submitted under this Order shall make the following Certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

F. **Submission.** All reports and monitoring data shall be submitted into the SMARTS database. The monitoring data must be in an electronic format where the data can be manipulated.

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II. MONITORING REQUIREMENTS

- A. **Monitoring Samples.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring locations specified below and, unless otherwise specified, before the monitored flow joins or is diluted by any other waste stream, body of water, or substance.
- B. **Quality Assurance and Control.** Chemical, bacteriological, and bioassay analyses of any material required by this Order shall be conducted by a laboratory accredited for such analyses by the State Water Board, Division of Drinking Water (DDW), in accordance with the provision of Water Code section 13176. Laboratories that perform sample analyses must be identified in all monitoring reports submitted to the Central Valley Water Board. Data generated from field measurements such as pH, dissolved oxygen (DO), electrical conductivity (EC), turbidity, and temperature are exempt pursuant to Water Code Section 13176. A manual containing the steps followed in this program for any field measurements such as pH, DO, EC, turbidity, and temperature must be kept onsite and shall be available for inspection by Central Valley Water Board staff. The Permittee must demonstrate sufficient capability (qualified and trained employees, properly calibrated and maintained field instruments, etc.) to adequately perform these field measurements. The Quality Assurance-Quality Control Program must conform to U.S. EPA guidelines or to procedures approved by the Central Valley Water Board.
- C. **Monitoring Instruments and Devices.** Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. All monitoring instruments and devices used by the Permittee to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary, at least yearly, to ensure their continued accuracy. All flow measurement devices shall be calibrated at least once per year to ensure continued accuracy of the devices.
- D. **Analytical Methods.** Laboratory analytical methods shall be sufficiently sensitive in accordance with the Sufficiently Sensitive Methods Rule (SSM Rule) specified under 40 CFR 122.21(e)(3) and 122.44(i)(1)(iv). A U.S. EPA-approved analytical method is sufficiently sensitive for a pollutant/parameter where:
1. The method minimum level (ML) is at or below the applicable water quality objective for the receiving water, or;
 2. The method ML is above the applicable water quality objective for the receiving water but the amount of the pollutant/parameter in the discharge is high enough that the method detects and quantifies the level of the pollutant/parameter, or;

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3. The method ML is above the applicable water quality objective for the receiving water, but the ML is the lowest of the 40 CFR 136 U.S. EPA-approved analytical methods for the pollutant/parameter.

III. MONITORING LOCATIONS

- A. **Monitoring Locations.** The Permittee shall establish the monitoring locations identified in Table A.
- B. **Executive Officer Approval.** Monitoring locations shall not be changed without notification to and the approval of the Executive Officer.

Table A. Monitoring Station Locations

Discharge Point Name	Monitoring Location Name	Monitoring Location Description ¹
--	RAIN-1	Rain gage located at the Mule Creek Wastewater Treatment Plant
--	MCSP1 (RSW-001)	Upstream receiving water location
001	MCSP2 (OUTFALL-1)	Storm water outfall into Mule Creek
002	MCSP3 (OUTFALL-2)	Stormwater outfall into Mule Creek
--	MCSP4 (RSW-002)	Downstream receiving water location approximately 200 feet downstream (south) of MCSP 3 (OUTFALL-2).

Table Notes:

1. Monitoring locations are shown in Figure 1 of this Order.

IV. STORM WATER OUTFALL MONITORING REQUIREMENTS

When discharging storm water to Mule Creek, the Permittee shall monitor storm water outfall discharges from the Facility at Monitoring Locations MCSP2 and MCSP3 as shown in Table B. Storm water outfall monitoring shall be collected concurrently with receiving water sampling (i.e., within four (4) hours).

Table B. Storm Water Outfall Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency
Total Discharge	MGD	Calculated	1/event
Duration of Discharge	Hours	Calculated	1/event
Rainfall in previous 24-hours	Inches	Gage	1/event
Biochemical Oxygen Demand 5-day @ 20°C (BOD)	mg/L	Grab	1/event

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Parameter	Units	Sample Type	Minimum Sampling Frequency
Chemical Oxygen Demand (COD)	mg/L	Grab	1/event
Dissolved Organic Carbon (DOC)	mg/L	Grab	1/event
Dissolved Oxygen	mg/L	Grab	1/event
Electrical Conductivity (EC) @ 25°C	µmhos/cm	Grab	1/event
Oil & Grease	mg/L	Grab	1/event
Ammonia (Total as N)	mg/L	Grab	1/event
pH	Standard Units	Grab	1/event
Settleable Solids	ml/L	Grab	1/event
Temperature	°C	Grab	1/event
Total Dissolved Solids (TDS)	mg/L	Grab	1/event
Total Hardness, (as CaCO ₃)	mg/L	Grab	1/event
Total Suspended Solids (TSS)	mg/L	Grab	1/event
Turbidity	NTU	Grab	1/event
E. coli	CFU/100 mL	Grab	1/event
Aluminum, Total recoverable ²	µg/L	Grab	1/event
Arsenic, Total recoverable	µg/L	Grab	1/event
Copper, Dissolved	µg/L	Grab	1/event
Iron, Total Recoverable ²	µg/L	Grab	1/event
Lead, Dissolved	µg/L	Grab	1/event
Manganese, Total Recoverable ²	µg/L	Grab	1/event
Zinc, Dissolved	µg/L	Grab	1/event

Table Notes:

1. Analytical Methods. All parameters shall be analyzed using the analytical methods described in 40 CFR part 136, unless approved by the Executive Officer.
2. Aluminum, Manganese, and Iron. Samples may be passed through a 1.5-micron filter to reduce filterable residue prior to analysis. Filter size recommended in EPA Approved Methods 30 CFR Part 136 for Total Dissolved Solids and Total Suspended Solids and is used for removing suspended solids from a solid prior to analysis. Filtering the sample will remove suspended solids that may contribute to turbidity and color in samples that may negatively impact analytical results for metal concentrations while better

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representing the dissolved solids that may pass through a water treatment plant's filtration system.

V. RECEIVING WATER MONITORING REQUIREMENTS

When discharging storm water to Mule Creek, the Permittee shall monitor receiving water at Monitoring Locations MCSP1 and MCSP4 as shown in Table C. Receiving water monitoring shall be collected concurrently with storm water outfall sampling (i.e., within four (4) hours).

Table C. Receiving Water Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency
Dissolved Organic Carbon (DOC)	mg/L	Grab	1/event
Dissolved Oxygen (DO)	mg/L	Grab	1/event
Electrical Conductivity (EC) @ 25°C	µmhos/cm	Grab	1/event
pH	Standard Units	Grab	1/event
Temperature	°C	Grab	1/event
Total Hardness (as CaCO ₃)	mg/L	Grab	1/event
Total Suspended Solids (TSS)	mg/L	Grab	1/event
Turbidity	NTU	Grab	1/event
E. coli	CFU/100 mL	Grab	1/event
Aluminum, Total Recoverable ²	µg/L	Grab	1/event
Arsenic, Total recoverable	µg/L	Grab	1/event
Copper, Dissolved	µg/L	Grab	1/event
Iron, Total Recoverable ²	µg/L	Grab	1/event
Lead, Dissolved	µg/L	Grab	1/event
Manganese, Total Recoverable ²	µg/L	Grab	1/event
Zinc, Dissolved	µg/L	Grab	1/event

Table Notes:

1. Analytical Methods. All parameters shall be analyzed using the analytical methods described in 40 CFR part 136, unless approved by the Executive Officer.
2. Aluminum, Manganese, and Iron. Samples may be passed through a 1.5-micron filter to reduce filterable residue prior to analysis. Filter size recommended in EPA Approved Methods 30 CFR Part 136 for Total Dissolved Solids and Total Suspended Solids and is used for removing suspended solids

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from a solid prior to analysis. Filtering the sample will remove suspended solids that may contribute to turbidity and color in samples that may negatively impact analytical results for metal concentrations while better representing the dissolved solids that may pass through a water treatment plant's filtration system.

VI. WATER COLUMN TOXICITY TESTING REQUIREMENTS

A. Acute Toxicity Testing. The Permittee shall conduct acute toxicity testing to determine whether the storm water discharge is contributing to acute toxicity to the receiving water. The Permittee shall meet the following acute toxicity testing requirements:

1. *Monitoring Frequency* – The Permittee shall perform acute toxicity testing twice per year (i.e., one sample January – June and another sample July – December), while discharging storm water and concurrent with storm water outfall constituent sampling required in III.A, above.
2. *Sample Types* – The Permittee shall use static renewal testing. The receiving water samples shall be grab samples and shall be taken at MCSP1 and MCSP4
3. *Test Species* – The test species shall consist of fathead minnows (*Pimephales promelas*).
4. *Methods* – The acute toxicity testing samples shall be analyzed using EPA-821-R-02-012 (Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, USEPA, October 2002, or most recent edition).
5. *Test Failure* – If an acute toxicity test does not meet all test acceptability criteria, as specified in the test method, the Permittee must re-sample and re-test to satisfy the monitoring frequency requirement (i.e., twice per year sampling).

VII. EFFECTIVE DATE

This Order is effective as of the date set forth below and remains in effect until rescinded by the Executive Officer.

VIII. RIGHT TO PETITION

Persons aggrieved by this Central Valley Water Board action may petition the State Water Board for review in accordance with Water Code section 13320, and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5pm on the 30th day after the date of this Order, except that if the 30th day falls on a Saturday, Sunday or State holiday, in which case the petition must be received by the State Water Board by 5pm on

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the next business day. Laws and regulations applicable to filing petitions are available on the internet (at the address below), and copies will also be provided upon request.

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

If you have any questions, please contact Elizabeth Lee at (916) 464-4787 or at Elizabeth.Lee@waterboards.ca.gov.

**Patrick
Pulupa**
Patrick Pulupa
Executive Officer



Digitally signed by Patrick
Pulupa
Date: 2020.08.12 12:41:34
-07'00'

Attachment: Figure 1 – Mule Creek State Prison Water Sampling Locations, dated June 2018

cc: [via E-mail]
Bryan Smith, Central Valley Regional Water Quality Control Board, Redding
Kari Holmes, Central Valley Regional Water Quality Control Board, Rancho Cordova
Howard Hold, Central Valley Regional Water Quality Control Board, Rancho Cordova
Gregor Larabee, California Department of Corrections and Rehabilitation
Christofer Hudgens, California Department of Corrections and Rehabilitation

Figure 1 – Mule Creek State Prison Water Sampling Locations

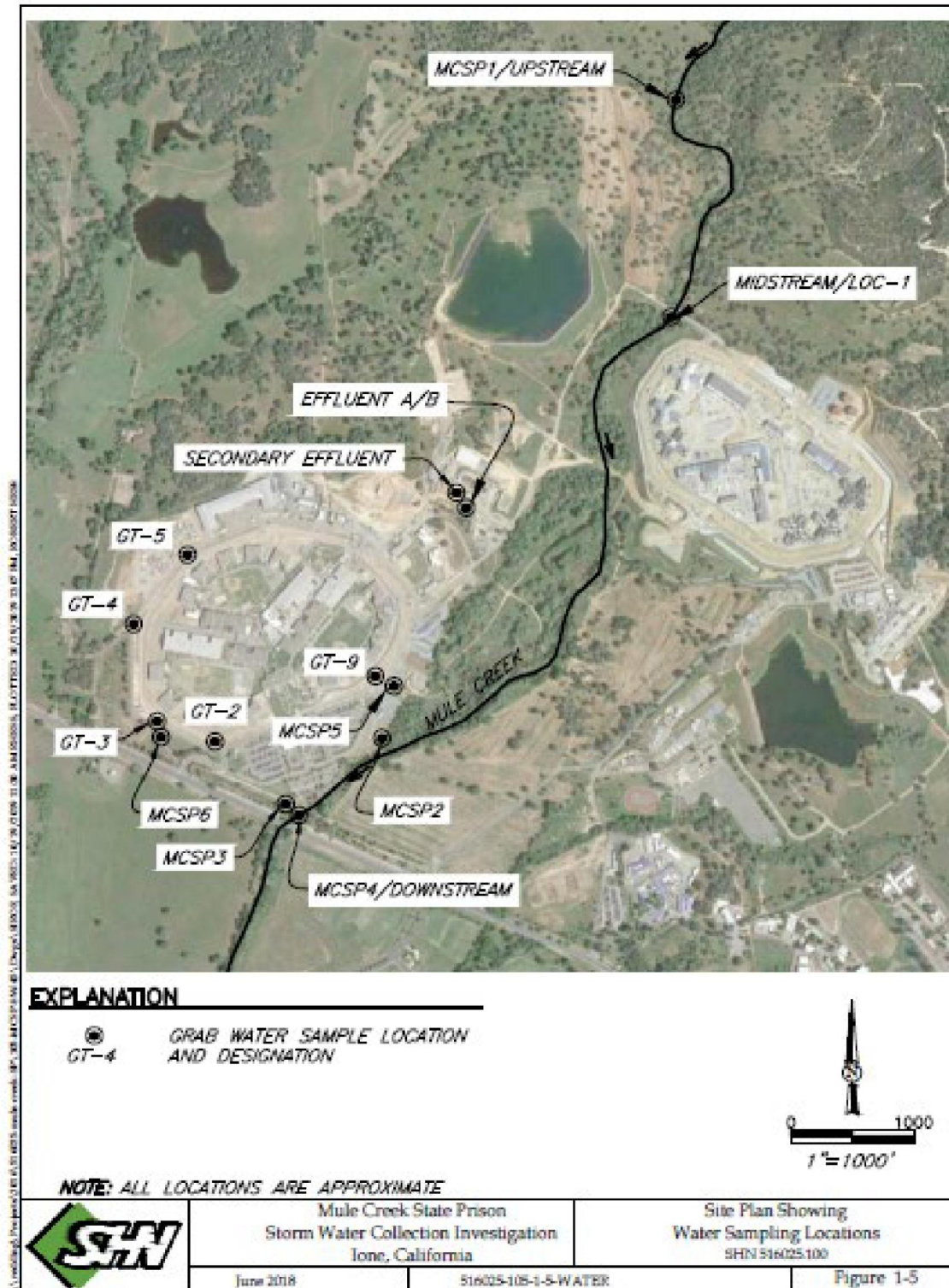


EXHIBIT 7



Central Valley Regional Water Quality Control Board

22 December 2020

Patrick Covello, Warden
Mule Creek State Prison
P.O. Box 409099
Ione, CA 95640
E-mail: Patrick.Covello@cdcr.ca.gov

WATER CODE SECTION 13383 ORDER TO MONITOR DISCHARGES TO SURFACE WATER; CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION – MULE CREEK STATE PRISON, WDID#:5S03M2000307, AMADOR COUNTY

On 6 August 2020, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) issued the California Department of Corrections and Rehabilitation (CDCR or Permittee) a Water Code Section 13383 Order to monitor discharges from Mule Creek State Prison (Facility) to surface water. This revised Water Code Section 13383 Order is being issued to clarify that monitoring is to be conducted when there is any discharge from the Facility's municipal separate storm sewer system (MS4) and require submittal of a Non-Storm Water Discharge Report. This Water Code 13383 Section Order supersedes the 6 August 2020 Water Code Section 13383 Order.

The Central Valley Water Board finds the following:

1. **Responsible Party.** CDCR owns and operates an MS4 at the Facility, located in Ione within Amador County.
2. **Mule Creek.** The Facility's MS4 discharges to Mule Creek, a water of the United States. Mule Creek is tributary to Dry Creek which runs into the Mokelumne River. The Central Valley Water Board's Water Quality Control Plan for the Sacramento River and San Joaquin River Basins designates the following beneficial uses for Mokelumne River, Camanche Reservoir and Delta and its tributaries, including Mule Creek: AGR, REC-1, REC-2, WARM, COLD, MIGR, SPWN, and WILD.
3. **Small MS4 General Permit.** The Facility is regulated under the State Water Resources Control Board (State Water Board) National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Storm Water Discharges

KARL E. LONGLEY SCD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

MCSP0032214

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from Small Municipal Separate Storm Sewer Systems, Water Quality Order 2013-0001-DWQ, as amended (Small MS4 General Permit) as a Non-Traditional MS4.

4. **Storm Water Control Program.** The Small MS4 General Permit requires CDCR to develop and implement a storm water control program for the Facility to reduce the discharge of pollutants from its MS4 to waters of the United States and ensure compliance with applicable water quality requirements.

5. **Water Code Section 13383.** Under Water Code section 13383, subdivision (a), the regional board “may establish monitoring, inspection, entry, reporting, and recordkeeping requirements . . . for any person who discharges, or proposes to discharge, to navigable waters” The regional board “may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.” (Water Code, § 13383, subd. (b); see also 33 U.S.C. § 1318(a); 40 C.F.R. § 122.41(h).)

6. **Potential Liability for Noncompliance.** Pursuant to Water Code section 13385, any person who violates a requirement established pursuant to section 13383 may be subject to an administrative civil liability up to \$10,000 for each day in which the violation occurs. The Central Valley Water Board may also seek judicially imposed civil liabilities up to \$25,000 for each day in which the violation occurs.

7. **Need for Monitoring and Reporting Requirements.** Due to potential water quality impacts to Mule Creek while the Facility’s storm water control program is being fully developed and implemented and to ensure compliance with Small MS4 General Permit requirements, the Central Valley Water Board has determined that an interim monitoring and reporting program is necessary to monitor MS4 discharges from the Facility to Mule Creek.

The Discharger has been submitting weekly monitoring reports since 2018. This weekly monitoring report is required by a Water Code Section 13267 Order issued by the Central Valley Water Board on 14 February 2019. Recent weekly monitoring reports document large volumes of irrigation water being discharged through the Facility’s MS4 into Mule Creek. The Discharge Prohibitions, Section B, in the Small MS4 General Permit state the following, in relevant part:

3. Discharges through the MS4 of material other than storm water to waters of the U.S. shall be effectively prohibited, except as allowed under this Provision or as otherwise authorized by a separate NPDES permit. The following non-storm water discharges are not prohibited provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges, are developed and implemented under the Permittee’s storm water program. This provision does not obviate the need to obtain any other appropriate permits for such discharges.

[...]

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- o. incidental runoff from landscaped areas (as defined in accordance with Section B.4 of this Order.

[...]

If a Permittee or Regional Water Board Executive Officer determines that any individual or class of non-storm water discharge(s) listed above may be a significant source of pollutants to waters of the U.S. or physically interconnected MS4, or poses a threat to water quality standards (beneficial uses), the Regional Water Board Executive Officer may require the appropriate Permittee to monitor and submit a report and to implement BMPs on the discharge.

- 4. Discharges in excess of an amount deemed to be incidental runoff shall be controlled. Regulated Small MS4s shall require parties responsible for such to implement Section B.4.a-d below. Incidental runoff is defined as unintended amounts (volume) of runoff, such as unintended, minimal over-spray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.

[...]

Non-storm water runoff discharge that is not incidental is prohibited, unless otherwise specified in Section B.3 above.

Due to the Facility discharging large volumes of irrigation water (i.e., non-storm water) through its MS4, a report is necessary for the Discharger to demonstrate that the non-storm water discharges through the MS4 are in compliance with the Discharge Prohibitions in the Small MS4 General Permit. The requirements in this Order supplement and do not supersede existing monitoring and reporting requirements under the Small MS4 General Permit or other monitoring and reporting orders issued by the Central Valley Water Board or its delegates.

- 8. **Delegated Authority.** This Order is issued under authority delegated to the Central Valley Water Board's Executive Officer pursuant to Resolution R5-2018-0057 and Water Code section 13223.

IT IS HEREBY ORDERED that, pursuant to Water Code section 13383, CDCR shall comply with the following monitoring and reporting requirements set forth below:

I. REPORTING REQUIREMENTS

- A. **Analytical Methods Report.** The Permittee shall complete and submit an Analytical Methods Report, electronically via the Stormwater Multiple Application Tracking System (SMARTS) database submittal. The Analytical Methods Report shall include the following for each constituent to be

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monitored in accordance with this Order: 1) applicable water quality objective, 2) reporting level (RL), 3) method detection limit (MDL), and 4) analytical method. The analytical methods shall be sufficiently sensitive with RLs consistent with the Sufficient Sensitive Methods Rule (SSM Rule) per 40 C.F.R. sections 122.21(e)(3) and 122.44(i)(1)(iv), and with this Order. If an RL is not less than or equal to the applicable water quality objective for a constituent, the Discharger shall explain how the proposed analytical method complies with the SSM Rule. Central Valley Water Board staff will provide a tool with the transmittal of this Order to assist the Permittee in completing this requirement. The tool will include the constituents and associated applicable water quality objectives to be included in the Analytical Methods Report. In accordance with the 6 August 2020 Water Code 13383 Order, the Discharger submitted an Analytical Methods Report on 15 September 2020.

B. Quarterly Monitoring Report. Permittee shall submit a Quarterly Monitoring Report by **1 May, 1 August, 1 November, and 1 February annually**. The Quarterly Monitoring Reports shall cover the following periods: 1) 1 January through 31 March, 2) 1 April through 30 June, 3) 1 July through 30 September, and 4) 1 October through December. The Quarterly Monitoring Report shall:

1. Provide monitoring data and toxicity test results for the quarter and a copy of all sample documents, including chain of custody forms, toxicity test results, and all associated laboratory documents

C. Annual Report. The Small MS4 General Permit requires an Annual Report to be submitted by 15 October. The following additional information shall be included in the Annual Report:

1. Toxicity Testing
 - a) The dates of sample collection and initiation of each toxicity test;
 - b) A summary of the reported toxicity test results according to the test methods manual chapter on report preparation and test review; and
 - c) All results for MS4 outfall parameters monitored concurrently with the toxicity test(s).
2. Monitoring data for the fiscal year covering 1 July through 30 June.

D. Non-Storm Water Discharge Report. The Permittee shall submit a Non-Storm Water Discharge Report by **1 February 2021**. The Non-Storm Water Discharge Report shall either:

1. Demonstrate how the non-storm water discharge is in compliance with the Discharge Prohibitions in the Small MS4 General Permit; or

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2. If the non-storm water discharge does not comply with the Discharge Prohibitions, provide a proposed plan, subject to Central Valley Water Board staff approval, to eliminate the non-storm water discharge. The proposed plan shall include the following:
 - a) Details of proposed best management practices (BMPs) to be implemented to eliminate the non-storm water discharge,
 - b) Details of interim actions to mitigate impact of non-storm water discharges to Mule Creek,
 - c) Implementation schedule of the BMPs, and
 - d) Date for expected compliance with the Discharge Prohibitions.
- E. **Discharge Notification.** The Permittee shall notify the Central Valley Water Board within 24 hours of the Facility discharging through the MS4 to the receiving water.
- F. **Certification.** Any person signing a document submitted under this Order shall make the following Certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.
- G. **Submission.** All reports and monitoring data shall be submitted into the SMARTS database. The monitoring data must be in an electronic format where the data can be manipulated.

II. MONITORING REQUIREMENTS

- A. **Monitoring Samples.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring locations specified below and, unless otherwise specified, before the monitored flow joins or is diluted by any other waste stream, body of water, or substance.
- B. **Quality Assurance and Control.** Chemical, bacteriological, and bioassay analyses of any material required by this Order shall be conducted by a laboratory accredited for such analyses by the State Water Board, Division of Drinking Water (DDW), in accordance with the provision of Water Code section 13176. Laboratories that perform sample analyses must be identified in all monitoring reports submitted to the Central Valley Water Board. Data generated from field measurements such as pH, dissolved oxygen (DO),

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electrical conductivity (EC), turbidity, and temperature are exempt pursuant to Water Code Section 13176. A manual containing the steps followed in this program for any field measurements such as pH, DO, EC, turbidity, and temperature must be kept onsite and shall be available for inspection by Central Valley Water Board staff. The Permittee must demonstrate sufficient capability (qualified and trained employees, properly calibrated and maintained field instruments, etc.) to adequately perform these field measurements. The Quality Assurance-Quality Control Program must conform to U.S. EPA guidelines or to procedures approved by the Central Valley Water Board.

- C. **Monitoring Instruments and Devices.** Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. All monitoring instruments and devices used by the Permittee to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary, at least yearly, to ensure their continued accuracy. All flow measurement devices shall be calibrated at least once per year to ensure continued accuracy of the devices.
- D. **Analytical Methods.** Laboratory analytical methods shall be sufficiently sensitive in accordance with the Sufficiently Sensitive Methods Rule (SSM Rule) specified under 40 CFR 122.21(e)(3) and 122.44(i)(1)(iv). A U.S. EPA-approved analytical method is sufficiently sensitive for a pollutant/parameter where:
1. The method minimum level (ML) is at or below the applicable water quality objective for the receiving water, or;
 2. The method ML is above the applicable water quality objective for the receiving water but the amount of the pollutant/parameter in the discharge is high enough that the method detects and quantifies the level of the pollutant/parameter, or;
 3. The method ML is above the applicable water quality objective for the receiving water, but the ML is the lowest of the 40 CFR 136 U.S. EPA-approved analytical methods for the pollutant/parameter.

III. MONITORING LOCATIONS

- A. **Monitoring Locations.** The Permittee shall establish the monitoring locations identified in Table A.
- B. **Executive Officer Approval.** Monitoring locations shall not be changed without notification to and the approval of the Executive Officer.

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Table A. Monitoring Station Locations

Discharge Point Name	Monitoring Location Name	Monitoring Location Description¹
--	RAIN-1	Rain gage located at the Mule Creek Wastewater Treatment Plant
--	MCSP1 (RSW-001)	Upstream receiving water location
001	MCSP5 (OUTFALL-1)	MS4 slide gate
002	MCSP6 (OUTFALL-2)	MS4 slide gate
--	MCSP4 (RSW-002)	Downstream receiving water location approximately 200 feet downstream (south) of MCSP3 .

Table Notes:

1. Monitoring locations are shown in Figure 1 of this Order.

IV. MS4 OUTFALL MONITORING REQUIREMENTS

When discharging through the MS4 to Mule Creek, the Permittee shall monitor MS4 outfall discharges from the Facility at Monitoring Locations MCSP5 and MCSP6 as shown in Table B. MS4 outfall monitoring shall be collected concurrently with receiving water sampling (i.e., within four (4) hours).

Table B. MS4 Outfall Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency
Total Discharge	MGD	Calculated	1/event
Duration of Discharge	Hours	Calculated	1/event
Rainfall in previous 24-hours	Inches	Gage	1/event
Biochemical Oxygen Demand 5-day @ 20°C (BOD)	mg/L	Grab	1/event
Chemical Oxygen Demand (COD)	mg/L	Grab	1/event
Dissolved Organic Carbon (DOC)	mg/L	Grab	1/event
Dissolved Oxygen	mg/L	Grab	1/event
Electrical Conductivity (EC) @ 25°C	µmhos/cm	Grab	1/event
Oil & Grease	mg/L	Grab	1/event
Ammonia (Total as N)	mg/L	Grab	1/event
pH	Standard Units	Grab	1/event

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Parameter	Units	Sample Type	Minimum Sampling Frequency
Settleable Solids	ml/L	Grab	1/event
Temperature	°C	Grab	1/event
Total Dissolved Solids (TDS)	mg/L	Grab	1/event
Total Hardness, (as CaCO ₃)	mg/L	Grab	1/event
Total Suspended Solids (TSS)	mg/L	Grab	1/event
Turbidity	NTU	Grab	1/event
E. coli	CFU/100 mL	Grab	1/event
Aluminum, Total recoverable ²	µg/L	Grab	1/event
Arsenic, Total recoverable	µg/L	Grab	1/event
Copper, Dissolved	µg/L	Grab	1/event
Iron, Total Recoverable ²	µg/L	Grab	1/event
Lead, Dissolved	µg/L	Grab	1/event
Manganese, Total Recoverable ²	µg/L	Grab	1/event
Zinc, Dissolved	µg/L	Grab	1/event

Table Notes:

1. Analytical Methods. All parameters shall be analyzed using the analytical methods described in 40 CFR part 136, unless approved by the Executive Officer.
2. Aluminum, Manganese, and Iron. Samples may be passed through a 1.5-micron filter to reduce filterable residue prior to analysis. Filter size recommended in EPA Approved Methods 30 CFR Part 136 for Total Dissolved Solids and Total Suspended Solids and is used for removing suspended solids from a solid prior to analysis. Filtering the sample will remove suspended solids that may contribute to turbidity and color in samples that may negatively impact analytical results for metal concentrations while better representing the dissolved solids that may pass through a water treatment plant's filtration system.

V. RECEIVING WATER MONITORING REQUIREMENTS

When discharging through the MS4 to Mule Creek, the Permittee shall monitor receiving water at Monitoring Locations MCSP1 and MCSP4 as shown in Table C. Receiving water monitoring shall be collected concurrently with MS4 outfall sampling (i.e., within four (4) hours).

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Table C. Receiving Water Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency
Dissolved Organic Carbon (DOC)	mg/L	Grab	1/event
Dissolved Oxygen (DO)	mg/L	Grab	1/event
Electrical Conductivity (EC) @ 25°C	µmhos/cm	Grab	1/event
pH	Standard Units	Grab	1/event
Temperature	°C	Grab	1/event
Total Hardness (as CaCO ₃)	mg/L	Grab	1/event
Total Suspended Solids (TSS)	mg/L	Grab	1/event
Turbidity	NTU	Grab	1/event
E. coli	CFU/100 mL	Grab	1/event
Aluminum, Total Recoverable ²	µg/L	Grab	1/event
Arsenic, Total recoverable	µg/L	Grab	1/event
Copper, Dissolved	µg/L	Grab	1/event
Iron, Total Recoverable ²	µg/L	Grab	1/event
Lead, Dissolved	µg/L	Grab	1/event
Manganese, Total Recoverable ²	µg/L	Grab	1/event
Zinc, Dissolved	µg/L	Grab	1/event

Table Notes:

1. Analytical Methods. All parameters shall be analyzed using the analytical methods described in 40 CFR part 136, unless approved by the Executive Officer.
2. Aluminum, Manganese, and Iron. Samples may be passed through a 1.5-micron filter to reduce filterable residue prior to analysis. Filter size recommended in EPA Approved Methods 30 CFR Part 136 for Total Dissolved Solids and Total Suspended Solids and is used for removing suspended solids from a solid prior to analysis. Filtering the sample will remove suspended solids that may contribute to turbidity and color in samples that may negatively impact analytical results for metal concentrations while better representing the dissolved solids that may pass through a water treatment plant's filtration system.

VI. WATER COLUMN TOXICITY TESTING REQUIREMENTS

A. Acute Toxicity Testing. The Permittee shall conduct acute toxicity testing to determine whether the MS4 discharge is contributing to acute toxicity to the receiving water. The Permittee shall meet the following acute toxicity testing requirements:

1. *Monitoring Frequency* – The Permittee shall perform acute toxicity testing twice per year (i.e., one sample January – June and another sample July – December), while discharging through the MS4 and concurrent with MS4 outfall constituent sampling required in III.A, above.
2. *Sample Types* – The Permittee shall use static renewal testing. The receiving water samples shall be grab samples and shall be taken at MCSP1 and MCSP4
3. *Test Species* – The test species shall consist of fathead minnows (*Pimephales promelas*).
4. *Methods* – The acute toxicity testing samples shall be analyzed using EPA-821-R-02-012 (Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, USEPA, October 2002, or most recent edition).
5. *Test Failure* – If an acute toxicity test does not meet all test acceptability criteria, as specified in the test method, the Permittee must re-sample and re-test to satisfy the monitoring frequency requirement (i.e., twice per year sampling).

VII. EFFECTIVE DATE

This Order is effective as of the date set forth below and remains in effect until rescinded by the Executive Officer.

VIII. RIGHT TO PETITION

Persons aggrieved by this Central Valley Water Board action may petition the State Water Board for review in accordance with Water Code section 13320, and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5pm on the 30th day after the date of this Order, except that if the 30th day falls on a Saturday, Sunday or State holiday, in which case the petition must be received by the State Water Board by 5pm on the next business day. Laws and regulations applicable to filing petitions are available on the internet (at the address below), and copies will also be provided upon request.

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

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22 December 2020

If you have any questions, please contact Elizabeth Lee at (916) 464-4787 or at
Elizabeth.Lee@waterboards.ca.gov.



Date: 2020.12.22
12:25:31 -08'00'

Patrick Pulupa
Executive Officer

22 December 2020

Date Signed

Attachment: Figure 1 – Mule Creek State Prison Water Sampling Locations, dated
June 2018

cc: [via E-mail]

Bryan Smith, Central Valley Regional Water Quality Control Board, Redding
Kari Holmes, Central Valley Regional Water Quality Control Board, Rancho
Cordova

Howard Hold, Central Valley Regional Water Quality Control Board, Rancho
Cordova

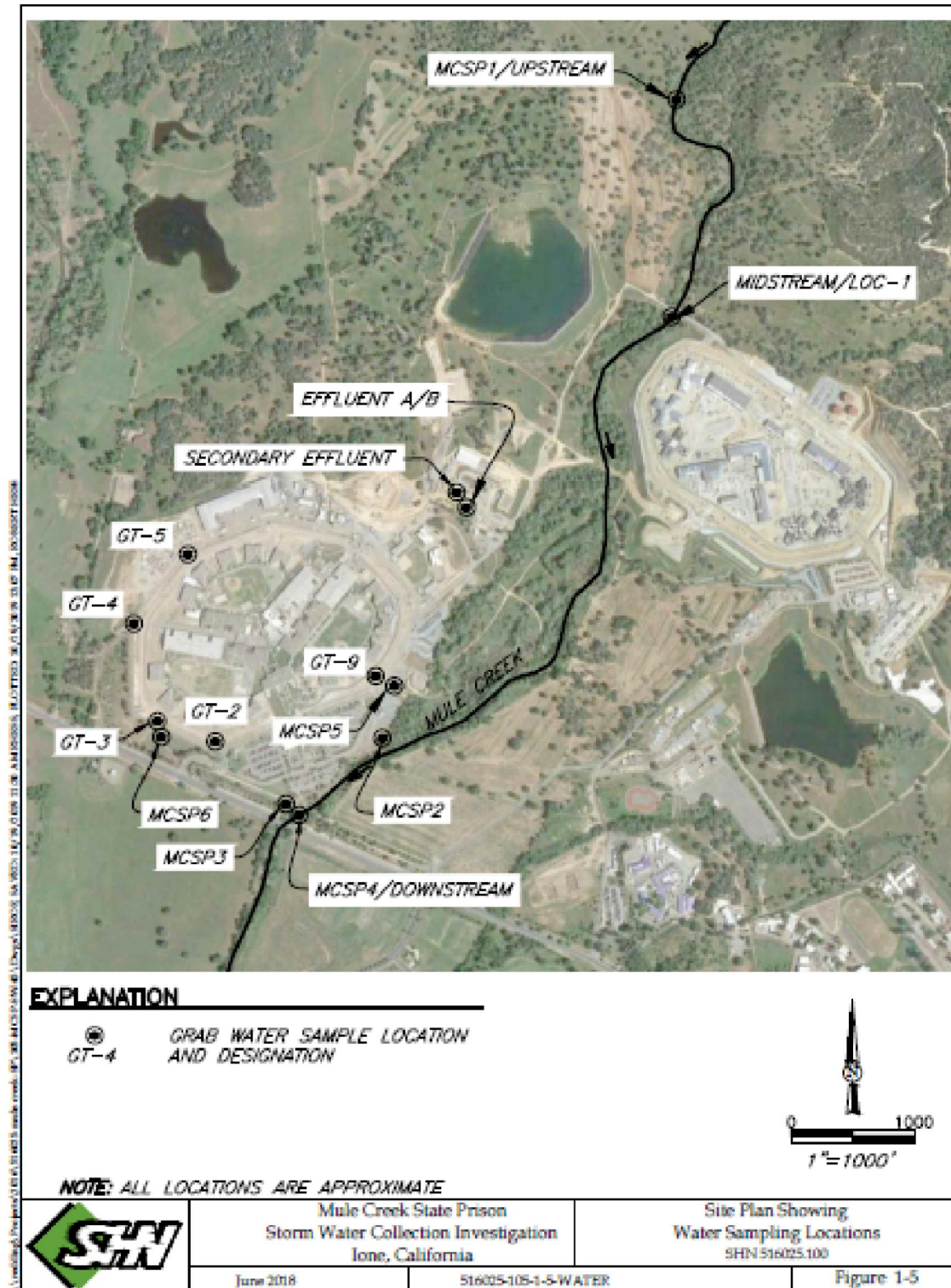
Gregor Larabee, California Department of Corrections and Rehabilitation

Christofer Hudgens, California Department of Corrections and Rehabilitation

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16 December 2020

Figure 1 – Mule Creek State Prison Water Sampling Locations



MCSP0032225

EXHIBIT 8

Fregeau, Estevan@CDCR

From: Fregeau, Estevan@CDCR
Sent: Tuesday, January 26, 2021 2:07 PM
To: Lee, Elizabeth@Waterboards
Cc: Orta, Anthony@CDCR; Hudgens, Christofer@CDCR; Bettencourt, Miles@CDCR
Subject: Mule creek report of discharge

As per the August 6, 2020 13383 order Mule Creek State Prison is to make notification of discharging of Stormwater into Mule Creek to the Central Valley Water Board

We have discharged from MCSP1, MCSP2, MCSP3 and MCSP4 locations during January 23-25, 2021 storm event.

Samples not taken from MCSP2, MCSP3, MCSP4, MCSP1 due to no flow upon arrival.

EXHIBIT 9

Fregeau, Estevan@CDCR

From: Fregeau, Estevan@CDCR
Sent: Wednesday, February 3, 2021 7:16 AM
To: Lee, Elizabeth@Waterboards
Cc: Hudgens, Christofer@CDCR; Orta, Anthony@CDCR; Bettencourt, Miles@CDCR; Larabee, Gregor@CDCR
Subject: MCSP discharge Notification

As per the December 22, 2020 13383 order Mule Creek State Prison is to make notification of discharging of Stormwater into Mule Creek to the Central Valley Water Board

We have discharged and sampled taken from MCSP4, MCSP5 and MCSP6 locations on January 27, 2021. MCSP1, MCSP4, MCSP5 and MCSP6 sampled on 2-2-2021 during this storm event



1-27-2021 MCSP1



2-2-2021 MCSP1



1-27-2021 MCSP4



2-2-2021 MCSP4



1-27-2021 MCSP5



2-2-2021 MCSP5



1-27-2021 MCSP6



2-2-2021 MCSP6

EXHIBIT 10

Fregeau, Estevan@CDCR

From: Fregeau, Estevan@CDCR
Sent: Tuesday, March 9, 2021 11:34 AM
To: Lee, Elizabeth@Waterboards
Cc: Bettencourt, Miles@CDCR; Orta, Anthony@CDCR; Hudgens, Christofer@CDCR
Subject: notification of release

As per the 13383 order Mule Creek State Prison is to make notification of discharging of Stormwater into Mule Creek to the Central Valley Water Board

We have discharged MCSP5 and MCSP6 locations during March 5th and 6th storm event, Samples not taken due to no flow.

Estevan Fregeau
Chief Engineer
Mule Creek State Prison
209-274-4911 EX6730